

STUDENT: Anil Balan

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DECLARATION

“I, Anil Balan confirm that the work presented in this thesis is my own. Where information has been derived from other sources, I confirm that this has been indicated in the thesis.”

ABSTRACT

Skills development and employability have in recent years become central aspects of legal education. Part of the rationale for this study was that the crucial perspective of law teachers towards teaching legal skills, and the challenges they might face in doing so through vocational pedagogies such as authentic assessment and problem-based learning (PBL) given the academic traditions of most university law courses, has not been given sufficient consideration. To address this, it was important to identify how teaching and curriculum development is being carried out at present, what challenges and opportunities are provided by current practices in this area, what needs to change and how these changes are to be implemented, bearing in mind practicalities affecting what interventions can be made. The principal aim of this study was to identify and resolve these issues by interviewing law teachers and using thematic analysis to analyse their interview transcripts, in order to develop a set of guidelines (the PREPS framework) for incorporating authentic assessment and PBL into the law curriculum to prepare students for employment, based on themes identified through empirical research. This study focused on PBL and authentic assessment because they are vocational pedagogies especially relevant for teaching legal skills, contextualising these skills and addressing skills gaps in legal education.

The key research findings – such as the increasing focus for law teachers on teaching legal skills in their disciplinary context, the effect of professional and teaching background on the perspectives of law teachers, the central importance of student engagement and the impact of environmental factors such as the coronavirus pandemic – will have wider implications for legal education in the context of the employability agenda as well as recommendations for professional practice in terms of developing an authentic teaching and assessment framework for legal education. The participants in this study were law teachers teaching legal skills to students from widening participation backgrounds and its findings therefore have particular relevance to widening participation institutions, which have tended to place a more explicit focus on legal skills teaching but face additional

challenges in terms of teaching and assessing to meet the employability agenda, with limited resources and less freedom.

IMPACT STATEMENT

Investigating the practical challenges brought about by the introduction of vocational pedagogies such as authentic assessment and PBL into the academic traditions of university law courses is a timely undertaking, given that skills development and employability have in recent years become increasingly regarded as a priority by the relevant professional regulatory bodies for both higher education and legal practice. Part of the rationale for this study is that the crucial perspective of law teachers on the challenges they face in teaching professional legal skills has not been given sufficient consideration. This is a significant gap, given that law teachers play a key role in affecting change within their institutions, and suggests that the key findings of this study have the potential to have a major impact on legal skills teaching. A study identifying how authentic teaching and assessment have been used previously, their challenges and ways of overcoming these, also has wider significance for approaching legal skills teaching in the future. Specifically, the framework (PREPS) developed in this study provides a set of guiding principles for incorporating authentic assessment and PBL into the law curriculum in order to prepare students for employment, based on themes identified through empirical research. The PREPS framework can be applied usefully by law teachers to address the employability and skills development agenda within their institutions by guiding the design of module learning outcomes and classroom activities, and helping with writing assessment tasks and criteria. This study will thereby have a favourable impact upon many law students, not just those who will become legal practitioners.

An authentic teaching and assessment framework for legal education is particularly advantageous and timely given that, in light of wider developments in higher education and legal practice, law schools have in recent years become increasingly responsive to curriculum innovation and willing to try out new initiatives. The innovations proposed in this study can take the form of harnessing and building upon what may well already be taking place in law schools rather than making major disruptive changes and interventions. As such, the potential impact of this study will be to allow the process of curriculum change within law schools to occur more smoothly than might

otherwise be the case. The eventual effect of this transformation from within will be to enhance both the quality of teaching and rigour of assessment of legal skills, thereby ultimately improving student performance and learning outcomes. As a course leader myself, I intend to make use of the PREPS framework to reshape the law curriculum at my own institution. The findings of this study therefore have practical implications for the design of modules incorporating legal skills in future, as well as being an original contribution to the literature in this field. The major findings of this study, in terms of an authentic assessment framework for legal education, will be disseminated through appropriate professional outputs in order to share this research with the widest appropriate audience and stimulate further studies. In particular I intend to submit an article to *The Law Teacher*, which is a peer-reviewed international journal of legal education, and to deliver a paper at the annual conference of the Association of Law Teachers, which is a professional organisation for sharing the theory and practice of legal education. The impact of this study on me personally therefore will be to both enhance my own research profile and contribute to the development of my professional role within my own institution.

REFLECTIVE STATEMENT

Introduction

My initial interest in studying a professional doctorate in education (EdD) at UCL stemmed from my experience both in legal practice and in academia. I have worked in higher education since 2011, before which I practiced as a solicitor for ten years. I am currently employed at the University of East London (UEL), where I am course leader for a Qualifying Law Degree (QLD), the Bachelor of Laws (LLB), which is the academic stage of training for students intending to practice as solicitors or barristers in England and Wales. I aim to continue to teach and research in higher education and wish to acquire greater expertise in both fields by obtaining vocationally relevant knowledge and skills. I therefore see an EdD as a route to advancing my career ambitions and enhancing my attractiveness to employers. I feel that in the current highly competitive recruitment market for academics such a respected qualification from a reputable institution is highly desirable. At the same time my interest in research related to enhancement of teaching and assessment for law students from diverse backgrounds is motivated by wider developments in legal education and training.

Skills development and employability have in recent years become increasingly regarded as a priority by the relevant professional regulatory bodies for both higher education and legal practice. Skills and attributes, as well as knowledge, are now identified as being key components of a law graduate and recent changes in the approach to qualification for future legal practitioners introduced by the professional regulatory bodies have emphasised this and created challenges for law schools in how best to prepare students to this new landscape. In particular, adapting my own personal and institutional practices to address the challenges presented by a new Solicitors Qualifying Examination (SQE) that will launch in 2021, which has a strong focus on professional legal skills, is therefore a practical concern for me as well as a research interest. This is especially the case given that I work at an institution that has a high population of students from widening participation backgrounds, and I therefore face additional challenges in terms

of teaching and assessing to meet the employability agenda, with limited resources and less freedom.

Taught modules

The taught element of the EdD did much to refine the scope of my research, from a broad interest in legal professionalism to a much more focused area of study relating to legal ethics. The first of the three taught modules was Foundations of Professionalism (FOP), which allows students to explore specific areas of professionalism and in doing so reflect on relevant literature and theoretical perspectives, in the process applying this to their own professional contexts. During the FOP module I developed an interest in legal ethics as an aspect of professionalism and, through engagement with relevant literature and reflection on my own experience of practice, I wrote an assignment about addressing the challenges of teaching legal ethics to take account of the widening participation agenda. FOP was invaluable in introducing me to a variety of academic opinion, ranging from the broad perspectives on ethics of Lunt (2008) to more discipline specific literature on ethics in the law curriculum, such as Boon (2002). I also gained valuable feedback on my first FOP assignment, which I applied to improve subsequent assignments, in particular relating to the need to include more critique of relevant theoretical perspectives and interrogation of my own professional practice.

With the benefit of this feedback from FOP I developed a much better understanding of the requirements of a professional doctorate in education than I had previously, especially when it came to appreciating the need for originality, reflection on and engagement with relevant literature and applying what I had learned in my own professional context. The experience of FOP was to help me greatly when it came to approaching the next module, Methods of Enquiry 1 (MOE1), which introduces students to research methods and enables them to develop methodologies for their own research. MOE1 gave me an opportunity to formulate a researchable problem relating to an area that I had come across in the course of my FOP reading, which was the gap in legal educational research when it came to the contribution clinical

legal education (CLE), i.e. pro bono clinics and related work, could make to teaching legal ethics. The process of producing a research proposal was one that I found demanding, especially when it came to developing a rationale for my proposed study and ensuring that there was a sufficient match between my research design and the framing of the problem I intended to research. I was only able to succeed in MOE1 through a combination of helpful tutor feedback, working in online groups with a supportive cohort of other students taking this module, and engagement with relevant methodological literature, in particular Robson (2011), which I had been largely unfamiliar with previously.

I felt that in my MOE1 assignment I had successfully ensured that I had better engaged with literature and included more of my own voice and critique in my work, and this was vindicated in the feedback I received. When it came to approaching the final taught module, however, I was also conscious of other weaknesses in my work that had been pointed out for me to address, including the need to develop and justify my approach to analysis in empirical research. Methods of Enquiry 2 (MOE2) allows students to actually put research into practice by designing, carrying out and writing up a small-scale empirical study, increasing their awareness of research methods and strategies in the process. Although it was carried out in a very limited time-scale, my MOE2 assignment was beneficial for several reasons: it allowed me to develop my work in MOE1 by focusing on a key area of CLE, it enabled me to engage with relevant conceptual frameworks relating to models of reflection e.g. Gibbs (1988), I gained experience of empirical research by exploring how student reflective journals could be used to gain an insight into the contribution CLE can make to legal ethics teaching, and I developed expertise using thematic analysis as a tool for analysing the data generated for my study. Ultimately, I was pleased with both the fit between the methodology and my research question and with the rigour of my analysis, although I took on board feedback that my analysis approach and findings sections could have been better differentiated.

The Institution Focused Study (IFS)

The IFS gives students the opportunity to carry out a small-scale research study based upon their own institution and allows them to build a growing understanding of and skills in research methods, engaging with some of the complex issues of insider research in the process. In terms of scope and depth the IFS was at that stage the most challenging aspect of my EdD journey but it also proved to be rewarding in a number of ways. I was able to focus on investigating the contribution of CLE to developing the ethical competence of law students, a subject touched upon during the FOP, MOE1 and MOE2 modules. In doing so, I engaged further with a key feature of CLE in terms of teaching legal ethics in the form of reflection, this time focusing on a number of different models, in particular Kember *et al.* (2008)'s four-component model for assessing reflection. I also made use of varied data sources and collection methods, developing my expertise at reviewing student reflective journals and in addition gained experience of interviewing the same students, triangulating the results to get a better understanding of the research problem I was investigating.

Methodologically, I benefited from using an in-depth analysis approach for the first time in the form of Interpretive Phenomenological Analysis (IPA), which was an invaluable tool for evaluating the data and developing my themes. Although there were clear limitations to the IFS with regard to its small-scale nature, I was ultimately satisfied with the results in terms of the professional relevance of my study, as identifying how reflection in CLE contributed to development of ethical competence allowed me to highlight the benefits of the clinical approach to teaching legal ethics, which could potentially be exported to other contexts. The feedback I received for the IFS, which stated that my work showed some originality and a good level of critical thinking, while being too descriptive in parts and needing to be clearer when it came to findings and insights into practice, was crucial when it came to approaching the final thesis element of the EdD.

The Thesis

When it came to approaching the thesis, I found it helpful to refer back to my initial goal when embarking upon the EdD, which was to address the

challenges presented by the SQE through focusing on the development of legal skills, taking into account my own professional context as a law teacher at a widening participation institution. At the same time I saw the thesis as an opportunity to build upon my experience of the taught and IFS components of the EdD, where I had mainly explored one aspect of professionalism in legal education in the form of legal ethics, by expanding my focus to explore teaching professional legal skills more generally. The EdD thesis assessment criteria require evidence of an original contribution to knowledge in the professional domain, as well as demonstrating an understanding of professionalism and my own professional role. Taking these requirements into account, I decided early on that the end goal of my thesis would be to attempt to provide an authentic teaching and assessment framework for legal education that addressed the particular needs of students from widening participation backgrounds.

Bearing in mind the need for a rounded literature review, I engaged with a wide range of academic opinion, both on problem-based learning and authentic assessment generally (e.g. Hmelo-Silver, 2004), and in the specific context of legal education (e.g. Hart *et al.*, 2011), then tried to ensure that this theoretical underpinning was visible throughout my work. Methodologically, my chosen data source and collection method involved interviewing law teachers with experience of leading and designing legal skills modules at widening participation institutions. I took this approach not only because this was a group that had received little attention in previous empirical studies concerned with legal skills and authentic assessment, but it was also one that had the potential to provide illuminating data on the key issue concerning the practical challenges brought about by the introduction of vocational pedagogies like authentic assessment and PBL into the law curriculum, which had largely academic traditions. This dichotomy is referred to in the literature as the liberal/vocational divide (Bradney, 2008).

My research design was also impacted by external factors in the form of a global pandemic, which hit early in 2020 and not only meant that all my interviews with participants in the study took place online, but also affected my findings. The themes I identified through the analysis process recognised the impact of the COVID-19 health crisis in both creating challenges for legal

education and providing opportunities for responding to them, particularly in the sphere of online teaching. My analysis approach took the form of thematic analysis, which I had gained a familiarity with from the taught element of the EdD and found to be helpful for providing a rich and detailed description of data (Braun and Clarke, 2006). Ultimately, thematic analysis helped me to develop themes as guiding principles that are applicable to authentic assessment and PBL in law schools and gaining a better understanding of how law teachers should teach professional legal skills. In a wider sense this demonstrates the benefit I have gained personally from the EdD, which has not only contributed to my own professional development but also developed my capacity for autonomous research. To illustrate this, before I embarked on the EdD I had only one publication to my name, now I have had five peer-reviewed articles published, and I am currently playing a leading role in reshaping the law curriculum at my own institution to better address the teaching of legal skills and preparing students for employment. For me the EdD has thus already fulfilled its potential for “the growth of professional knowledge through reflection on practice” (Burgess, Sieminski and Arthur, 2006: 7).

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1. Introduction and Rationale

Skills development and employability have in recent years become central aspects of legal education as, alongside academic learning, students are increasingly expected to acquire training in reading, thinking, communicating and solving problems like a professional lawyer (Killean and Summerville, 2019). This process mirrors developments in higher education more broadly, where the economic considerations of the value of an undergraduate degree have, in the opinion of Ashwin (2020) and others, come to dominate debates about the quality of higher education, to the extent that what is regarded as the main educational purpose of a degree largely seems to be preparing students for a future role in the work force. Following the mass expansion in higher education participation in the late nineteen eighties and early nineties, the issue of what key skills are relevant for employment (and throughout life) arose out of the Dearing Report in 1997 (Mason, 2006). Dearing defined a set of generic skills to enhance graduate employability – including communication, literacy, numeracy, and problem solving, team working and IT skills – and recommended that the provision of such skills should become a central aim for higher education. Reflecting the influence of Dearing, employability is also now used as a benchmark for evaluating universities, as it is increasingly regarded as a priority by the relevant professional and regulatory bodies for UK higher education.

For law in particular, the Report of the Legal Education and Training Review (LETR) (Webb *et al.*, 2013) recommended that more emphasis on legal research skills, communication skills, and writing for a range of purposes were desirable at all stages of legal education. Graduate employability is also a strong focus within the Teaching Excellence Framework (TEF) and the Quality Assurance Agency's Subject Benchmark for Law (QAA, 2019), which identifies skills and attributes, as well as knowledge, as being key components of a law graduate. In 2015 the professional regulatory body for solicitors, the Solicitors Regulation Authority, issued a new competency statement (SRA, 2015) identifying the standards required for solicitors as including appropriate use of language and showing sensitivity when needed. The Solicitors Qualifying Examination (SQE) is a new centralised assessment

designed to test whether students have met the standards set out in this statement, which will launch in 2021 with the first assessment taking place by the end of this year (SRA, 2020). The overall message seems to be to create a pervasive context within which professional skills are developed. These recent changes in the approach to qualification introduced by the professional and regulatory bodies create “new challenges for both universities and students in relation to the acquisition of legal skills... and the extent to which these elements should be incorporated into (law degrees)” (Jones, 2019: 36). In particular it can be argued that the SQE places a greater responsibility than ever before on university law schools for preparing law students for entry to the legal profession, rather than leaving this to vocational training providers as was the case previously. This provides a strong justification for the ultimate aim of this study, which is to develop a framework for teaching legal skills in order to prepare students for employment.

Although student engagement is key to any employability-related curriculum reform, some commentators hold the view that law teachers hold the primary responsibility for affecting change (Tsaoussi, 2019). Part of the rationale for this study is that the crucial perspective of law teachers towards teaching professional legal skills, and the challenges they might face in doing so, has not been given sufficient consideration. Issues to consider in this context include the potential friction between a liberal and vocational approach to legal education, with the traditional focus of the former mainly on preparing law students to develop into better citizens and the main aim of the latter being preparation for professional practice (Bradney, 2008). Again, this is a tension that is reflected in higher education as a whole, with the aforementioned Ashwin (2020) noting the problematic nature of understanding the value of a degree in purely economic terms. If educational quality is linked solely to the earning potential of graduates after they leave university, this ignores the vital transformational impact of higher education in terms of shaping students’ sense of who they are and what they can do in the world and the role of extraneous factors such as social privilege and perceived institutional prestige on shaping educational and employment outcomes. Law teachers are likely to encounter this tension mainly in the context of curriculum design, particularly in relation to assessment and in terms of how

much time should be devoted to teaching skills such as writing, research and advocacy as opposed to black letter law i.e. the technical content of law degrees. Traditionally, university law schools in the UK have focused on the latter, with the former being regarded more as the preserve for 'on-the-job' training, with the legal professional bodies using an apprenticeship model, where aspiring legal professionals learned in the workplace from experienced practitioners. Only very recently has this traditional divide started to blur, bringing with it particular problems, as identified in the literature and referred to in the next section, for law teachers who wish to achieve the dual goals of encouraging a deeper engagement among law students as well as contextualising their classroom experiences. A central argument of this study is that skills, whether they are vocational ('soft' skills applied in practice e.g. negotiation, advising and advocacy) or more traditionally academic ('hard' skills perceived as leading to the outcomes of a liberal legal education e.g. reading, research and reasoning), are mostly contextualised to their field of study rather than being wholly generic and that vocational pedagogies can potentially contextualise legal skills development and help develop graduate attributes in context. The use of the terms 'academic' and 'vocational' skills and even the distinction between is, however, recognised as problematic and this will also be explored in this study.

The key issue to be explored in this study concerns the practical challenges brought about by the introduction of vocational pedagogies like authentic assessment and problem-based learning (PBL) into the law curriculum, which has largely academic traditions, in order to teach legal skills. The employability agenda has "necessitated a rethinking of how learning and assessment activities are organised to satisfy the dual function of providing a liberal legal education while facilitating student and external expectations of employability" (Rigg, 2013: 404-405). The question, therefore, is not so much whether law programmes should increase the amount of legal skills teaching but rather how far reaching this implementation should be in terms of curriculum and assessment design, the extent to which the most important stakeholders such as law teachers agree and, ultimately, what approach this curriculum development should take. To address this question, it is important to identify how teaching and assessment is being carried out at

present, what challenges and opportunities are provided by current practices in this area, what needs to change and how these changes are to be implemented, bearing in mind practicalities affecting what interventions can be made e.g. the effect of the ongoing coronavirus pandemic on face-to-face teaching (see next paragraph). Identifying and attempting to resolve these issues is a principal aim of this study, which will lead to wider implications for legal education in the context of the employability agenda, as well as recommendations for professional practice. The ultimate aim of this study is to develop a set of guidelines with a uniquely empirical basis (the PREPS framework, discussed in section 5), which can be applied usefully by law teachers in the teaching of legal skills in order to prepare law students for employment by guiding the design of learning outcomes and assessment tasks in individual modules and throughout the law curriculum. As will be demonstrated in the following sections, PBL and authentic assessment are the primary focus of this study because it is argued that assessment, both formative and summative, is an effective means of contextualizing employability skills in the curriculum and authenticity is a key characteristic of assessment design that promotes employability. PBL and authentic assessment will therefore be used in this study as lenses to examine the curriculum and assessment design challenges that have been experienced in introducing vocational elements into academic courses.

Since the COVID-19 health crisis hit at the start of 2020, it is important to mention that this study was conducted in the middle of a global pandemic and in doing so I was aware that this might have an impact on not only the methodology but also the findings. I therefore anticipated some discussion of, for example, the shift to online teaching and assessment as a result of the pandemic, even if this was not the main focus of the research. In just over eighteen months, much has been written already about the effect of the pandemic on teaching and learning, both generally and in the context of legal education. A study by Cutri, Mena and Whiting (2020) suggests that the challenging aspects of taking risks and making errors while learning to teach online as a result of the pandemic seem to have been mitigated by a combination of more beneficial factors such as humility, empathy, and even optimism among teachers. However, teachers have also said that

transitioning online in the context of a pandemic distorts usual longitudinal perceptions of preparation and readiness (Cutri, Mena and Whiting, 2020). Cantatore *et al.* (2020) point to the significant impact on graduate employment the pandemic had in 2020 e.g. leading law firms have deferred their graduate recruitment programmes, staff have been asked to buy leave, and hiring, salary and promotion freezes have been announced. “The repercussions of the COVID-19 pandemic may reverberate in the legal profession not only in the short and medium term, but for years to come” (Cantatore *et al.*, 2020: 9) and this may result in greater expectations of graduate employability skills, for example with regard to information and communications technology (ICT) skills, problem-solving skills and resilience. There may be practical difficulties meeting these challenges that this study will uncover.

The impact of the employability agenda is perhaps felt most acutely at institutions such as my own, the University of East London (UEL), where I am the undergraduate course leader for law. UEL has a high population of students from widening participation backgrounds and law teachers there face additional challenges in terms of teaching and assessing to meet the employability agenda, often at the expense of a more rounded liberal education, with limited resources and less freedom. It has been noted that the incorporation of skills was markedly different between ‘new’ (i.e. post-1992) institutions and older universities, with the former expressly incorporating skills such as drafting, interviewing, negotiation and communication within dedicated modules or topics within modules, while only a minority of the latter did this and were more likely instead to incorporate skills implicitly (Grimes, Klaff and Smith, 1996). Mytton (2003) has found that in new universities the student experience was more centred on vocational preparation and that, in contrast to their peers in older universities who had grown apart from legal practitioners, at new universities the commercial function of the law degree was perhaps more keenly felt. As a new university UEL therefore teaches skills in a different way than the older universities, in that it is explicit rather than implicit in the curriculum, with specific modules and topics within modules devoted to skills teaching. The more established tradition of teaching professional legal skills explicitly at a new university and the greater familiarity of its staff with vocational approaches provides a strong justification for a

study in this context. The impetus for this research therefore comes in part from my own practical experience, as a law teacher at an institution that is directly and heavily influenced by the employability agenda. This study also builds upon my IFS, which was concerned with one aspect of professionalism in law teaching in the form of legal ethics, expanding the focus to explore teaching professional legal skills more generally.

What follows is divided into sections, with section 2 focusing on a literature review, section 3 on methodology, section 4 on analysis of data, section 5 on discussion of findings and section 6 on the conclusions, limitations and implications of this study.

2. Literature review

This literature review will begin by examining the broad and contested concepts of employability, work-readiness and professional skills generally, before looking at them in the specific context of legal education and exploring inherent issues, in particular the liberal/vocational divide i.e. the debate between the academic and vocational content of the law curriculum. This literature review will also cover the meaning of key terms such as graduate attributes and vocational pedagogy and look at problem based learning and authentic assessment as examples of vocational pedagogies. In doing so consideration will also be given to how these vocational pedagogies can be used as theoretical frameworks that are applicable to this study, in part by looking at the application of these concepts in previous studies. Finally, research questions for investigating the practical challenges brought about by the introduction of a vocational pedagogy into the academic traditions of university law courses will be developed in light of this review of the literature.

2.1. Employability, work-readiness and professional skills

Whilst open to a number of interpretations, employability can be defined as “a set of achievements – skills, understandings and personal attributes – that makes graduates more likely to gain employment and be successful in their chosen occupations” (Yorke, 2006: 8). This definition can be problematic though, as the concept of employability is “widely acknowledged as contested and there is no agreement on which skills and attributes are most likely to increase graduate employability” (Knox and Stone, 2019: 90). The concept of employability is, however, generally used to describe student skills and attributes that make graduates more likely to find employment, such as problem solving, communication, self-management and team working (Knox and Stone, 2019). As such the term ‘employability’ describes something different from whether students are ready to work in their chosen profession. There is therefore a need for some explanation of what ‘work-readiness’ means, as this is a term that relates more to how prepared graduates are for the world of work rather than just their ability to find a job

(Masole and van Dyk, 2016). The term 'work-readiness' in this sense might simply be assumed to mean how well their education has prepared graduates to cope with their chosen profession from 'day one' on the job. There is a developing view in the literature, however, that the skills which contribute to work-readiness should not be restricted to field-specific knowledge and generic skills such as communication and reasoning skills only, but that they should be extended to include personal attributes or intrapersonal factors, such as attitude, reflective skills, good personal presentation, honesty, integrity and respect for others (Caballero and Walker, 2010).

Following on from this idea of an individual graduate's personal attributes being central to their readiness to work, it might be argued that at the heart of being work-ready is the concept of 'professionalism,' which although itself not easy to define can be described as "shared norms, high standards of competency and conduct and, importantly, a sense of public obligation" (Baron and Corbin, 2012: 102). The universality and transferability inherent to the very nature of professionalism also seems important to emphasise in terms of the "skills and values that any professional should possess" (Dagilyte and Coe, 2014: 37). Professionalism is not, therefore, simply the rules of professional conduct as set out in that particular jurisdiction – as stated by Colby and Sullivan (2008: 405): "Professions involve (at least) a commitment to serve the interests of clients and the welfare of society." Noone and Dickson (2001) set out their minimal requirements for a legal practitioner to be considered professionally responsible as including the following: competence; clear, open and frequent communication with clients; and identifying, raising and discussing ethical issues. Hyams (2008) refers to three further requirements that can be added to augment this list: working in an autonomous way, exercising judgment, and having an ongoing commitment to lifelong education. This need for continuing professional development is key, given that the body of professional knowledge required to practice will change continually. Carless (2006) has also highlighted the importance of students developing the kind of self-monitoring skills required for lifelong learning, which seems particularly pertinent in relation to law students given that practising lawyers are obliged by their professional bodies to engage in continuous professional development throughout their careers.

Professionalism should therefore not be construed narrowly as consisting simply of technical competence and adherence to the written rules of the profession. The term 'professionalism' can be regarded in a broader sense that places more emphasis on a number of universal skills, values and attitudes that guide an individual's behaviour (Rowe, Murray and Westwood, 2012) and should therefore be an important focus for legal education. Thus, professionalism denotes not only field-specific knowledge, but also skills and competencies.

However, 'skills' is another term that is not straightforward to define, as stated above, since this also includes attributes going beyond just technical competence. There is a distinction between the academic or 'hard' skills traditionally associated with technical legal knowledge and the intellectual qualities of a liberal legal education, such as understanding, analysis, critical thinking and legal research (Wallace, 2010), which law schools have tended to focus on in their curricula, and soft skills applied in practice, which are designed to develop students' creativity, powers of persuasion and problem solving abilities (Tsaoussi, 2019) and have not had the same prominence in the past. Vocational or 'soft' skills have been described as portable and valuable to any job or career and may be either personal (concerning self-growth and self-management e.g. resilience and persistence) or interpersonal (the ability to interact with others e.g. teamwork, management and leadership skills) (Schneider, 2012). All of these skills are critically important for lawyers, however, and the incorporation of vocational skills at the undergraduate level of study enables students to learn early on that they need to focus on soft skills development as much as they do on the traditional hard skills of their chosen discipline. It is therefore appropriate to next give some consideration to teaching legal skills in the law curriculum in light of the concepts of employability, work-readiness, professionalism and skills described above and these contested terms will be considered further in section 2.2 in the specific context of legal education.

This section has explored the broad and contested concepts of employability, work-readiness and professional skills generally. In doing so, however, a critical approach needs to be taken. For example, there is a conflict between notions of professionalism and work-ready graduates given

the importance of continuing professional development, which by definition suggests that graduates cannot be fully ready to cope with the requirements of their chosen profession from day one. Personal or interpersonal factors may also contribute to work-readiness but must surely to some extent be developed during the course of a graduate's career rather than being wholly learned at university. It appears logical and useful to distinguish between intellectual or academic 'hard' skills, associated with the knowledge of law, and applied or vocational 'soft' skills, which may be personal or interpersonal. In other words, there is a distinction between the technical skills of a lawyer (you expect your solicitor, for example, to understand, analyse and be up to date on the law) and the personal or interpersonal skills of a lawyer (you also expect your solicitor to be personable and to have a good working relationship with them). However, it should be recognised that there may be an element of crossover between these skills as well, with there being obvious vocational value in academic skills like reasoning, research, reading and analysis and clear academic benefits to students developing their resilience and management 'soft' skills. Advocacy is a good example of this crossover, with students needing to master how to make legal arguments as well as how to do so in a manner that is well spoken and persuasive. Legal drafting also requires students to both demonstrate knowledge and understanding of the law and do it in a clear and comprehensible way. Whilst vocational skills have been described above as being portable or generic, it will be demonstrated in the next section that this view may be problematic and that soft skills are in many ways dependent on context, which has implications for curriculum and assessment design as it raises the issue of whether skills can be usefully developed on courses without relevant academic content. There is also a link between both academic and vocational skills and graduate attributes, which will be examined further below.

2.2 Teaching professional skills in the law curriculum

It is first necessary to understand the place of professional legal skills teaching within legal education, with reference to the employability agenda. The legal professional bodies associate professionalism with competence, for

example in the form of the Statement of Solicitor Competence mentioned in section 1, which emphasizes core values, professional standards, individual morality and respect for community. The SQE tests whether students have met the standards set out in this statement by requiring them to apply their “functioning legal knowledge” to demonstrate the competences required of a newly qualified solicitor (SRA, 2020). The SQE assessment specification makes it clear that functioning legal knowledge refers to the depth and breadth of knowledge of law that candidates are required to demonstrate by reference to a range of core legal principles and rules that they should be able to apply to realistic client-based problems. It is significant that the Statement of Solicitor Competence takes a broad definition of competence as being “the ability to perform the roles and tasks required by one’s job to the expected standard” (Eraut and du Boulay, 2001). The SQE also uses Miller’s pyramid (Miller, 1990), which is a model for the assessment of professional competence used extensively in other disciplines such as medical and dental training, to provide a framework for the assessment of solicitor competence. In assessing the application of functioning legal knowledge required for effective practice the SQE focuses particularly on the applied knowledge (“knows how”) element of Miller’s pyramid. It is notable that the SQE, supplemented as it is by the Statement of Solicitor Competence, not only emphasises technical legal practice (in the form of effectively undertaking legal research, drafting documents, undertaking advocacy and managing legal cases and transactions) but equally highlights the importance for lawyers of professionalism and judgment (including acting honestly and with integrity, maintaining competence and legal knowledge, and applying critical thinking to solve problems), working with other people (by communicating clearly and maintaining effective professional relations) and managing themselves and their own work (in terms of planning work activities efficiently, keeping good records, and applying good business practices).

There therefore seems to be a recognition that professionalism goes beyond technical competence, and in a legal context this can include attributes such as “autonomy, a fiduciary duty to the court and the ability to manage ambiguous problems, tolerate uncertainty and make decisions with limited information” (Turner, Bone and Ashton, 2018: 2). The challenge for law

schools is to mould the curriculum to the changing legal services landscape in order to produce employment-ready graduates by combining the learning of substantive legal content with the experience of practice in order to improve employability and professionalism. There is also, as referenced in section 2.1, considerable debate regarding the actual skills that should be taught as part of a law curriculum. Whilst there does seem to be a consensus that legal education is not only concerned with teaching students the theory and the letter of the law, however, there is no clear agreement on what specific attributes a law graduate could be expected to possess (McNamara, 2017). The concept of professional competence denotes not only subject-specific knowledge, but also a soft skill or a 'wicked' competence "such as creativity or critical thinking [that] cannot be precisely defined and... takes on different forms in different contexts" (Berger and Wild, 2017: 430). Employers are placing an increasing emphasis on recruiting graduates who have soft skills, such as organisation, team working, and the whole range of communication skills, including language, articulation and presentation (Tomlinson, 2008). Outcomes-led curriculum planning is however problematic and, as pointed out by Knight (2001: 373) "there are problems with context-free statements of learning outcomes and with belief in 'transferable' skills." It can thus be argued convincingly that skills are mostly contextualized and that the capacity to discern the essential nature of a problem, decontextualize it and recognize the features in a novel context is a very high level attribute.

This need for contextualisation may well provide a basis for an argument for the incorporation of authentic teaching and assessment, as this could be a potential way of achieving this aim. Jorre de St Jorre and Oliver (2018) have suggested that students find statements of graduate learning outcomes or attributes that are articulated at a whole-of-university level too generic to be meaningful and that they are most likely to engage with learning outcomes that are contextualized to their course and their personal situations, emphasized clearly by their teachers, and incorporated prominently into assessments. Assessment in particular appears to be a logical focus for contextualizing employability skills in the curriculum, given that the tendency of students to prioritize learning associated with assessment has been commented on previously in the literature (Ramsden, 2003). Designing

assessment tasks to specifically assess the attributes and capabilities that graduates should acquire therefore seems sensible. Authenticity has also been identified as a key characteristic of assessment design that promotes employability (Villarroel *et al.*, 2018), and this will be explored further in section 2.4 on authentic assessment. In this regard though, Jorre de St Jorre and Oliver (2018: 44) have argued that “advice from employers, professionals and recent graduates, and exposure to industry-related experiences could help make graduate capabilities more meaningful.” As to how to actually achieve this in practical terms, an innovation to integrate graduate attributes into the curriculum put forward by Litchfield, Frawley and Nettleton (2010) proposes contextualizing learning activities for each professional field of study by re-designing them for each profession’s workplace and perspective in order to ensure that work-ready understandings and skills are learnt within their professional context. Active academic involvement in this process of developing and sharing learning activities and experiences is encouraged by Litchfield, Frawley and Nettleton (2010), as the importance of academic ownership of developing graduate attributes is regarded by them as key to the success of such curriculum renewal projects. Student attitudes may be equally significant here, since contextualizing their learning in terms of the profession in which they hope to gain employment could also help to dispel in students any impression that the content is not relevant.

It is clear that this concept of contextualized skills also links in with the discussion of graduate attributes in section 2.1 and above, since Cumming (2010) and others have pointed out that attributes are highly context dependent and interwoven with the culture and content of their discipline. It may be beneficial at this point to look more closely at understanding what is actually meant by graduate attributes. Graduate attributes are referred to as being “an articulation of the core learning outcomes of a university education” by Hughes and Barrie (2010: 325) and defined as the skills and qualities that extend beyond the discipline specific and/or technical aspects of their knowledge that graduates need to be capable of demonstrating for the diverse and rapidly changing needs of the modern workplace (de la Harpe and David, 2012). As with other key concepts referred to above, such as employability, work-readiness and skills, there is no one universally accepted definition of

graduate attributes. However, Cantatore *et al.* (2020)'s reference to attributes such as written and oral communication, critical thinking, problem solving, information literacy, the capacity for independent thought and autonomous learning, and the ability to work in a collaborative and ethical manner, provides a useful starting point, whilst also linking in with above the discussion of skills in section 2.1. Indeed, there is a great deal of consistency in the broad categories of desirable graduate attributes articulated in the literature, including both academic skills and what are often described as generic or soft skills, such as “communication, teamwork, critical thinking, problem solving, self-management, digital literacy and global citizenship” (Jorre de St Jorre and Oliver, 2018: 45). Litchfield, Frawley and Nettleton (2010) have highlighted attributes identified by professional bodies – again including ethics and professionalism, a global perspective, communication capacity, ability to work well in a team and apply knowledge, and creative problem solving and critical thinking skills – as being desirable for work-ready graduates precisely because, unlike technical skills, these attributes are regarded as being too difficult for employers to instill in new graduates through training. It has, however, been argued that a blunt ‘checklist approach’ to inculcating graduate attributes in students is undesirable due to the risk of fragmenting the curriculum and encouraging an overly rigid approach to teaching and learning (Cumming, 2010). This underlines the need for a clear strategy to support the development of skills in undergraduates.

Hughes and Barrie (2010) also make the point, which applies to law schools as much as any other university department, that although institutions have always placed importance on the desirability of developing these graduate attributes, “for many students, this has been an implicit rather than explicit consequence of their university experience” (Hughes and Barrie, 2010: 325). What has changed in recent years is an increasing focus on incorporating graduate attributes specifically as additional learning outcomes in their own right in higher education curricula, to be demonstrated through assessment as part of the outcomes-based approach referred to above. This pressure in UK law schools has been felt at a local level through reports like the LETR and UK-based quality assurance agencies (e.g. the QAA), as mentioned in section 1, but it is universal and has found its expression

internationally through, for example, the Tuning Project in Europe (2004) and the Lumina Foundation in the USA (2009). To date, however, universities have struggled to integrate graduate attributes successfully into their curricula (de la Harpe and David, 2012). This is hardly surprising, given that the assessment of graduate attributes is a complex and challenging undertaking, with such difficulties including their translation into discipline-specific forms, the necessity to focus on course-level assessment, the maintenance of standards across courses, the complexity of tracking student progress in courses that permit diverse elective choices, resourcing implications and so on (Hager and Holland, 2006). In addition, if graduate attributes are not assessed there is a risk that students and educators will not take them seriously, in spite of their importance to both government and employers (Knight and Page, 2007). This highlights a tension that is both central to this study and at the heart of legal education, which will be considered in the next section, as well as again identifying a potential role for authentic teaching and assessment in relation to instilling graduate attributes and contextualizing legal skills.

In this section it has been demonstrated that the legal professional bodies value not only academic skills ('technical legal practice' in the Statement of Solicitor Competence) but also vocational skills such as professionalism, judgment, self-management and working with other people. It has also been shown that while in the literature desirable graduate attributes may cover traditionally academic or technical skills such as critical thinking and legal reasoning, academic opinion also suggests that graduate attributes mainly cover the same sort of skills consistently identified above as vocational, including teamwork, communication and information or digital literacy (again illustrating the importance of vocational skills development). A common and convincing argument is that skills, whether hard or soft, and therefore by extension graduate attributes too, are not only highly context-dependent but need to be explicitly incorporated into the curriculum and assessed. To extend the example given at the end of section 2.1, both the technical or academic skills of a lawyer and the personal or interpersonal skills of a lawyer referred to there are contextualized – you expect your lawyer to be able to draft specifically legal documents like advice letters and the

working relationship a client has with their lawyer is different from the relationship a customer has with their plumber or hairdresser e.g. in terms of expectations of confidentiality. Contextualization of skills is not an easy proposition when it comes to curriculum and assessment for law students in light of some of the challenges identified above, but it is important and clearly establishes a potential role for authentic teaching and assessment as a means of achieving the necessary contextualization of skills and attributes in the law curriculum, which is explored further in section 2.4.

2.3 The liberal/vocational divide in legal education

The extent to which a law degree can or, indeed, should develop the aforementioned skills, understandings and personal attributes is open to considerable debate, much of it centred on the balance between the academic and vocational content of the curriculum. For many law teachers considering the benefits and practicalities of embedding employability in teaching, learning and assessment activities also involves thinking about how this approach can be reconciled to liberal ideals (Rigg, 2013). A liberal legal education is traditionally thought of as being concerned with pursuing knowledge as an end in itself and not necessarily with preparing students for a particular profession (Bradney, 2008). This is a debate that goes to the heart of what legal education is for. Arguably, a liberal legal education would focus attention on “developing skills of knowledge acquisition through research, critical thought and debate” (Guth and Ashford, 2014: 6). The vocational aspect of legal education, meanwhile, “prepares students to apply their substantive and critical knowledge of the law to real-life situations... and equips them with the necessary skills to work with clients as legal professionals” (Harding, 2016: 128). This traditional divide is partly due to the manner in which the academic law degree and vocational training of lawyers developed in England and Wales, with professional bodies using a model of ‘on-the-job’ training for students to learn legal skills and undergraduate legal education having no formal role in preparing students for professional examinations. For example, this ‘on-the-job’ training took the form of training contracts for trainee solicitors, where over the course of two years trainees

learn from experienced lawyers in a similar manner to an apprenticeship, referred to below, before becoming newly qualified solicitors. This training contract is only embarked upon by law students after first passing a professional examination on completion of the one year long postgraduate Legal Practice Course (there is a broadly similar route to qualification for barristers). The university law degree was therefore focused more on the intellectual development of students, not on preparing them for a career in law, while preparation of students for entry to the legal profession was left to vocational training providers e.g. the Law Society's College of Law (for solicitors taking the Legal Practice Course) and the Inns of Court (for barristers). The SQE does not formally bring university law schools into vocational training, but may affect the ways in which they engage with it in terms of preparing students for this new professional examination.

Whilst liberal education can perhaps be said to remain a priority for the majority of law teachers, it is also fair to say that most academics see no harm in a vocational element to the law degree in addition to the traditional academic study of substantive law (Sherr, 1998). Indeed, for some this is a false dichotomy, since the professional value of the broad academic qualities associated with liberal education, such as understanding, analysis and critical thinking, should not be underestimated (Wallace, 2010). In this sense, it is possible for a liberal legal education to encompass vocational pedagogies focusing on preparation of lawyers for practice, as well as developing knowledge and skills for their own sake (Duncan, 2015). The term 'vocational pedagogy' has different meanings, which may reflect different educational traditions and influences, with Lucas for example describing it as "the science, art and craft of teaching and learning vocational education" (Lucas, 2014: 2). This is perhaps not the best definition as it then begs the question as to what 'vocational education' is and therefore Avis's more straightforward description of vocational pedagogy as "learning for work thereby developing the skills to labour effectively" (Avis, 2014: 49) may be a better starting point, with examples of the term in a legal context being helpful to provide a clearer understanding of it. One example of a vocational pedagogy in law is Clinical Legal Education (CLE), in which "students are confronted with real client problems and work independently and collaboratively with peers and legally

qualified supervisors to solve those problems” (Hall, 2019: 476) in the context of a student law clinic, thus learning from practical, real world experiences with the support of teachers and/or supervisors. Another example is experiential learning, which can be defined as education “that makes conscious application of the students’ experiences by integrating them into the curriculum” (Keeton and Tate, 1978: 2) and is thus again anchored in real life experiences. It has been argued that the use of experiential learning can draw attention to the human and interpersonal dimensions of the law and enhances contextual understanding, thereby advancing liberal education in a manner that may be more effective than the more traditional essays that can focus too much on legal doctrine, while ensuring academic rigour and helping students to develop their theoretical understanding (Burrige and Webb, 2007). Consideration of vocational approaches to professional skills teaching is therefore potentially instructive, and will be explored further in the next section.

Before doing so, it is important to first make it clear that the liberal/vocational divide is by no means unique to law teaching and that very similar debates and changes have been taking place in other professional fields, for similar reasons, such as education, health and engineering. Hodgson and Spours (2010) referred to the growth of education-based vocational training as being part of a state-sponsored strategy for the development of higher-level skills, as a substitute for on-the-job training by employers and as a result of historic weaknesses in the provision of work-based education and training for young people in the English education and training system. From a series of seminars involving higher education professionals, Hodgson and Spours (2010) noted that while participants from the health sector recognized the value of vocational skills such as team working, those from engineering mentioned that it was harder to implement changes to established progression routes and traditional qualifications due to the strongly established community of practice within their sector. This parallels to some extent what was said above about academic resistance to a vocational approach in legal education. It should also be pointed out that vocational pedagogies in higher education have many similarities to the apprenticeship model of learning, which has been used in a wide range of

occupations from surgery to journalism, cookery to music, and hairdressing to fashion design (Fuller and Unwin, 2009). At its most basic level an apprenticeship involves a novice or trainee who is largely new to their discipline learning on-the-job from a highly skilled mentor or specialist, studying how to be morally upright citizens as well as acquiring occupational expertise in the process. Skill formation through a vocational approach to education has the potential to import many of the perceived advantages of the apprenticeship model in terms of gaining disciplinary knowledge and the applied skills, values and processes of particular occupations in order to both mature as a person and grow into a professional identity (Fuller and Unwin, 2009). Vocational pedagogies can thus potentially contextualise legal skills development and help develop graduate attributes in context. How this can be achieved will be given further consideration in the next section by reference to two specific examples of vocational pedagogies with particular relevance to law.

To sum up, the argument that legal education should not be purely vocational and that there is another purpose for higher education beyond just preparing students for the world of work is compelling, and it can therefore be said that universities should indeed seek to prepare students for life beyond work, in accordance with liberal ideals. As discussed above, this is a proposition that most law teachers would probably find appealing, but by no means does this suggest that they are thereby inherently opposed to adopting vocational approaches in legal education. Indeed, liberal legal education can embrace vocational pedagogies, both because of the professional value of the qualities most commonly associated with the former and because of the potential of the latter for contextualising legal skills and developing graduate attributes in context, preparing students for life as well as work in the process. The similarities between the apprenticeship model and vocational pedagogies as noted above is significant in this light given that, as has also been mentioned in this section, the legal professional bodies have previously used a model of 'on-the-job' training for students to learn legal skills. Whilst for solicitors this traditional route to becoming fully qualified is now being replaced by the SQE, importing vocational pedagogies into the undergraduate

law degree offers one way of retaining at least some of the advantages of the apprenticeship model in legal education and training.

2.4 Vocational pedagogies

2.4.1. Problem based learning and authentic assessment as examples of vocational pedagogies

The principal aim of this study is to investigate the practical challenges brought about by the introduction of vocational pedagogies into legal education. It is important at the outset to understand the theoretical basis for these vocational approaches in order to establish a framework for interrogating these views and their justifications. Friction between focusing on the academic skills required for professional practice and on soft skills is mirrored in law curricula. Core modules stress academic skills that are customarily associated with the knowledge of law, including analysis, information gathering, and legal research. However, Tsaoussi (2019) and others argue for the more systematic incorporation of vocational skills modules – which enrich students’ creativity, powers of persuasion and problem-solving capabilities – in law school curricula. Potential vocational approaches to this integration of hard and soft skills include the related concepts of problem-based learning (PBL) and authentic assessment. Although other vocational pedagogies such as CLE and experiential learning have been mentioned in more general terms above, this study will focus on PBL (which CLE has been regarded as a form of (Grimes, 2016)) and authentic assessment (which experiential learning has also been seen as an aspect of (Newbery-Jones, 2016)) because of this potential to integrate different categories of skills successfully through their use and thereby instil crucial graduate attributes in context. In PBL students are presented with real (that is, based on actual facts) or realistic problems (which may be taken from real life and adapted or be entirely fictional) and learn by solving these problems and reflecting on this process (Barrows and Tamblyn, 1980). In ‘authentic’ learning settings, “real-life authentic tasks are used to create the core of the learning environment” (Herrington, Reeves and Oliver, 2006: 235)

and assessment is therefore authentic where it replicates what students will be required to do in the work place. The theoretical foundations for PBL and authentic assessment are examined below.

PBL is a form of self-directed learning environment in which students learn through the experience of solving problems, working together in collaborative groups to identify both the factual issues and gaps in their knowledge, applying what they learn and reflecting on this process, with the role of the teacher being to facilitate this student learning (Hall, 2019). At the outset, PBL also requires articulating the learning outcomes of the task in terms of what teachers want students to know or be able to do as a result of participating (Loyens, Magda and Rikers, 2008). PBL has a long history in other disciplines and it has been suggested that it is an “approach that offers the potential to help students develop flexible understanding and lifelong learning skills” (Hmelo-Silver, 2004: 235). It has also been claimed that PBL has the potential to make students more effective self-directed lifelong learners and collaborators and more motivated learners (Hmelo-Silver, 2004). Authenticity, considered further below, is a key aspect of PBL, where the learning comes from exposure to real or realistic work, as it is based usually on an exercise simulating a real life encounter, but just as importantly it is frequently conducted in group sessions and responsibility for learning and collaborating is placed on students, who construct their own learning in the process (Grimes, 2016). The key components of PBL for the purposes of this study in light of the above are self-direction, group work and real or realistic problems with clearly defined learning goals, although as discussed below the extent of this self-direction need not always be total.

While PBL is a model that could be regarded as an appealing alternative to more rigorously structured traditional learning experiences, some commentators have, however, been critical of the self-directed nature of PBL. It has been suggested that the less guidance given to students, the less effective the learning is (Kirschner, Sweller and Clark, 2006), although notably these claims are not based on empirical evidence showing that more guidance given to students results in more effective learning. This criticism may perhaps be more relevant where the model of PBL is ‘open’ (where the student drives the process with little tutor guidance) rather than ‘guided’

(where tutors are more directive) and is considered further in the next section in the context of legal education. Bearing in mind that it has been said above that PBL is an established teaching method in a number of other disciplines, it may be useful to note here lessons from some of those other contexts. In the health professions, for example, it has been noted that poor group dynamics may have a damaging effect on collaboration and communication, and that it is therefore important for “group members to feel safe to explore and question knowledge” (Hughes and Lucas, 1997: 87).

As an assessment-based extension of the teaching strategy of PBL, with which it has some similarities, authentic assessment includes “activities designed to replicate the ‘real world’ by using realistic scenarios, authentic documentation and practice-based technology” (Jones, 2019: 43). For Herrington, Reeves and Oliver (2006) authentic activities are defined by the following characteristics: (a) the students describe the tasks needed to complete an activity, investigate complex activities over a sustained period of time, examine the tasks from different perspectives, collaborate and use a variety of resources, and have the chance to reflect; and (b) the activities have real world relevance, can be integrated and applied across different subject areas, are integrated seamlessly with assessment, create polished products that are valuable in their own right, and allow competing solutions and a diversity of outcomes. The practicality of these requirements for authentic teaching and assessment does need to be considered, as they ask a lot from students, teachers and institutions of higher learning. The increased demands on students, staff workload and resources required for authentic activities to be carried out effectively mean that this is neither an easy nor a cheap strategy to adopt and its advantages (considered further in the next section) need to be seen to justify such an investment. Like PBL, however, authentic assessment is a common teaching strategy in other professional fields. In engineering education, for example, authentic assessment has been used successfully to motivate and support students in developing not only technical competence but also professional competence, including a commitment to excellence, through clear demonstration in a marking scheme of industry expectations (Guzzomi, Male and Miller, 2017).

The aspect of “real world relevance” described above, whilst equally intrinsic to authentic teaching and assessment, is also potentially problematic. For assessing the authenticity of a task McNamara (2017) refers to questions that can be put to course leaders to determine authenticity, including:

- Whether students are required to mimic professionals in the real world and complete tasks using resources similar to those in the work place under realistic conditions;
- Whether tasks produce valuable, polished products;
- Whether higher order thinking, reflection and self-assessment are integrated seamlessly with tasks;
- Whether the student collaborated with other stakeholders when completing the task;
- Whether the student needed to exercise judgment in determining sub-tasks of the main task; and
- Whether tasks produce novel or diverse responses.

The above list raises significant questions and indicates that there may be many challenges for implementing authentic assessment. How can students mimic professionals in the real world without live examples to learn from – does this mean that practising legal professionals have to be involved in authentic activities? If so, how are they (or any other stakeholders with whom students are expected to collaborate) to be resourced and deployed? Finally, two other factors have been identified as intrinsic to authentic learning and assessment: student engagement and the role of academic staff (Hart *et al.*, 2011). Again, these are not straightforward matters given that they imply greater demands on students and staff than might perhaps be expected of more traditional classroom activities. The literature shows, therefore, that designing and indeed identifying authentic assessment is no easy task, but needs to be looked at from the perspective of both students and law teachers, with self-direction, collaboration and real world relevance being key aspects. This will be examined in more detail below.

2.4.2. The potential value of PBL and authentic assessment in legal education

PBL is a methodology used at many medical but few law schools, the University of York's probably being the best known example of the latter, and "the bulk of what has been written about PBL is non-law based" (Grimes, 2016). Even though PBL is particularly relevant to law given that "collaborative problem-solving is at the heart of legal practice" (Ryan, 2017: 138), minimal research into it has been conducted in legal education. Schmidt has argued that PBL harnesses prior knowledge and makes students the primary drivers of the learning process as they call on both pre-existing and newly discovered knowledge by discussion of a relevant problem and this process encourages them to inquire, research and appraise their findings (Schmidt, 1993). More critically, there are challenges implicit in PBL from the perspectives of design, implementation, assessment and evaluation (Feletti and Boud, 1997). Grimes (2016) bears this out by setting out ten detailed steps to PBL, from reading and clarifying the problem to checking to see if learning outcomes are met, although ultimately he acknowledges the value in students seeing the client's problems from the perspective of all interested parties and notes that, as well as being an aspect of authentic assessment as mentioned above, experiential learning adds a valuable dimension to PBL, which is useful to consider further. Taking another lesson from the use of PBL in the health professions, challenges identified there have included lack of training and support for tutors, time constraints and lack of student recognition, which Tremblay, Tryssenaar and Jung (2001) have suggested need to be addressed by support and ongoing training for tutors if PBL is to be implemented effectively.

One recent study by Boothby and Sylvester (2017) involving use of PBL in a legal context explored the development of students' writing skills through the use of a problem-based practice-oriented course. This research identified that students did not always relate their experience of academic writing with the skills needed for writing in practice, perhaps because real-life tasks were not always included, and led to the conclusion that a clearer framework was necessary. This underlines the need for law schools to explore fresh ideas to equip their students for legal practice and develop

guiding principles for teaching legal skills. In light of Grimes and Boothby and Sylvester's work it is perhaps surprising that more has not been written specifically about PBL in a legal context, although this may be because this approach to study is not well understood and, as illustrated above, the term 'PBL' is wide and not always implemented consistently. In light of the suggestion from the research referred to above about the positive effects of PBL, however, more research is needed to obtain conclusive evidence of the impact that PBL has on student learning (Grimes, 2016) and this provides support for an empirical study in this context.

Authentic assessment in law also seems to have great potential that has been largely unexplored, even though Hart *et al.* (2011) make the point that authentic assessment is not a new concept, as it has been discussed since the 1960s. In terms of benefits, it is viewed as “an effective way of contextualising the law and legal theory” and “ensures that students have opportunities to develop the critical thinking and problem-solving skills needed in professional situations, as well as the cognitive and performance skills relating to graduate attributes” (Hart *et al.*, 2011: 105). But authentic learning activities and assessment tasks also have the potential to go beyond simply teaching and testing skills and preparing students for employment, as they can raise student aspirations and motivation “through explicit demonstration of career alignment and relevance of curriculum activities” (Berger and Wild, 2017: 433). In a legal context, for example, it is precisely because showing students that there is often no single right answer that authentic assessment is suited to doing more than simply adding to a student's knowledge. It is in this area of uncertainty and contingency – of a practice that can be prepared for but never wholly predicted – that authentic assessment is particularly beneficial. Opportunities to interview and negotiate can also help to address the “skills gaps in commercial awareness, legal research skills, and communication” mentioned in the Legal Education and Training Review (Webb *et al.*, 2013: xiv). Importantly, small-group work is said to protect against dropout and encourages student engagement (Schmidt, Rotgans and Yew, 2011), although this clearly may not always be the case depending on the context.

The advantages of authentic teaching and assessment are not restricted to enhancing employability, as it provides an opportunity for a more holistic approach to learning, where students see law in its wider operational setting, including seeing legal problems from the perspectives of all interested parties. This is a methodology that thus has the potential to serve the agendas both of employability and of awareness of substantive legal doctrine through a single integrated approach to teaching and assessment, regardless of whether the course of study is seen as academic or vocational. In authentic learning environments, students can learn from errors that do not have the same consequences as they might have in the real world. Authentic assessment can also require students to engage with critical and socio-legal analysis (Stevens, Grimes and Phillips, 2016): reflecting especially on the interaction between law and society and the powers and interests implicit in that, including serving public policy and wider interests. In this sense authentic assessment has been described as a way of responding to some common criticisms of higher education, for example that students have difficulty applying the knowledge acquired in different academic contexts, and that recent graduates are considered by employers to be rigid, unprepared for employment and unable to adapt to the demands of working life (Villarroel *et al.*, 2018). Authentic assessment can simultaneously address these concerns and enhance employability by providing opportunities for students to practice skills and competences that are valued in the workplace, like problem-solving, and developing capabilities important to their future jobs, such as coping with uncertainty, working under pressure, thinking strategically, and communicating with others.

It has also been suggested that the benefits of authentic assessment extend to improving metacognition, self-reflection and higher-order thinking skills (Ashford-Rowe, Herrington and Brown, 2014). The significance of metacognition to learning processes is that it stimulates a deep approach to learning, which encourages students to seek a structure of meaning in their discipline, rather than simply remembering enough to pass their examinations (Biggs, 2003). Reflection is an important aspect of this as, through ongoing monitoring by students of their own learning, “metacognition establishes the value and importance of both critical reflection and self-evaluation for

successful workplace performance, as well as personal development” (Ashford-Rowe, Herrington and Brown, 2014: 208). Reflection is widely acknowledged in the literature as a means to enable students to extend their learning experiences beyond the classroom by them examining their past performance and then using this understanding to alter their future behaviour (Moon, 2004) (Zepke, Nugent and Leach, 2003) (Madhloom, 2019). A valuable aspect of authentic assessment, therefore, is the chance to get students actively involved in the application of principle to practice and then take that experience and deconstruct it in a reflective process, as demonstrated in the seminal work of Schön (1995). As influential as Schön’s work has undoubtedly been, its critics have pointed out that he neither analyses everyday practice nor attempts to consider how reflective processes might serve different purposes or vary from one context to another, and that “Most of his examples fail to provide evidence of reflection-in-action and none of them relate to crowded settings like classrooms” (Eraut, 1995: 9). These criticisms aside, law teachers may wish to consider the use of reflection to perform authentic assessment activities given its relevance in professional settings, where the ability to evaluate and self-monitor tasks is critical to independent workplace performance.

2.4.3. Challenges of PBL and authentic assessment

Having established the place of professional legal skills teaching in the context of the employability agenda and identified potential approaches, it is useful to explore the inherent challenges, associated dilemmas and possible resistance, as well as opportunities, of these approaches. At first glance, PBL and authentic assessment seem perfectly attuned not only to embedding the sorts of professional skills required to meet the aims of the employability agenda in modern law schools but also to instilling the qualities associated with liberal education valued by law teachers, as discussed above. However, the challenges of teaching and assessing students authentically are significant and not always easily addressed. The criticism of PBL referred to above in terms of the limitations of self-directed learning, with less guidance perhaps resulting in less effective learning, might to some extent also apply to

authentic teaching. Academic resistance from staff who feel that lectures and seminars in the traditional format are the best teaching environment for students and that “written examinations are the ‘gold standard’ in terms of academic rigour” is a hurdle identified by Wallace (2010: 366). There are, however, degrees of resistance and, depending on their views, staff may agree to complete, partial or limited integration of authentic teaching into their modules, depending on how they choose to teach and assess. Even with the benefit of full support from staff, considerable challenges remain in terms of curriculum and assessment design if it is accepted that students learn most effectively in an environment as close to real life as possible.

Achieving the goal of providing authentic assessment is therefore neither cheap nor easy. There are a number of key points here. Students need to simultaneously be provided with less guidance in the classroom than they might be used to, given the self-directed nature of these interventions, and more support outside of it to cope with this type of teaching method. Much of the onus for this will fall on law teachers, who might equally have little familiarity with authentic activities, perhaps especially if they have no background in legal practice and hence lack some of the experience necessary to simulate real world experiences in the classroom. Any interventions to increase the authenticity of teaching and assessing skills and competencies first require training and support for those who will be implementing the changes. The practicalities of doing so must be in doubt with demands on and scrutiny of higher education providers being currently as great as ever owing to increased media coverage and uncertainty over student recruitment due to the coronavirus pandemic, with budgets and resources being under greater pressure than ever before as a result. Alongside a difference in approach is the need to update the content of law programmes, which also requires the support of academic colleagues – a challenge that may be an “uphill task” (Berger and Wild, 2017: 431). However, this is an approach that is explicitly encouraged in the QAA Subject Benchmark Statement for Law, which lists among the qualities of a law graduate the following: “Ability to apply knowledge and understanding to offer evidenced conclusions, addressing complex actual or hypothetical problems” (QAA, 2019). There might therefore be a mismatch between the QAA

requirements and the realities of curriculum development. That innovation of this kind is essential to authentic assessment is also demonstrated by illustrations from other disciplines where it has been used. In tertiary science education, for example, it has been argued that institutions need to develop and support industry and community connections so that all academic staff are able to include this aspect of authenticity in order to effectively create authentic curricula and enhance students' understanding of viable future career paths (Schultz *et al.*, 2021). This is an area that is therefore ripe for further investigation and how this will be done is discussed in the following sections.

2.5. Summary, research aims and research questions

In the preceding literature review a number of concepts underpinning this study were highlighted, which it is useful to summarise briefly here before setting out the research aims and questions for this study, as they will be revisited in the later sections on data analysis and discussion of findings. In section 2.1 a distinction was drawn between academic 'hard' skills (e.g. reading, critical thinking, legal research, understanding, analysis and legal reasoning) and vocational 'soft' skills (e.g. communication skills, self-growth, self-management, and interacting with others), while recognising that there may also be an element of crossover between them. It was pointed out in section 2.2 that both academic and vocational skills are highly context-dependent, indicating the importance of contextualising legal skills in their discipline. While a liberal/vocational divide in legal education was discussed in section 2.3, it was also recognised that most academics see no harm in a vocational element to the law degree in addition to the traditional academic study of substantive law and that there is not necessarily a contradiction between liberal and vocational approaches. Finally, in section 2.4 PBL and authentic assessment were identified as vocational pedagogies that are potentially especially relevant for teaching legal skills, contextualising these skills and addressing skills gaps in legal education. Some of the requirements of PBL and authentic assessment were identified in section 2.4, with achieving the goal of 'real world relevance' being among the most challenging requirements

of authentic assessment, although it seems clear that to be authentic classroom experiences can be realistic, or as close to real-life as possible, in order to satisfy this particular requirement.

Investigating the practical challenges brought about by the introduction of a vocational pedagogy into the academic traditions of university law courses, as the basis for making changes to better integrate this into legal curricula and ultimately developing an authentic teaching and assessment framework for legal education, is the overall aim of this study. To gain these insights, this study will focus on the following research questions:

- (1) From the perspective of law teachers, how has authentic teaching and assessment been incorporated into the law curriculum (both in discrete legal skills modules and in other modules)?*
- (2) What do law teachers describe as the challenges of incorporating and implementing authentic teaching and assessment practices?*
- (3) How have or might law teachers overcome any challenges in adapting their modules to incorporate authentic teaching and assessment and in preparing students for employment?*

In order to answer these questions, as identified above, what needs to be determined is how far reaching the implementation of authentic teaching and assessment of skills in legal curricula has been, the extent to which the most important stakeholders such as law teachers agree and ultimately what approach this curriculum development has taken. The valuable perspectives of law teachers on these issues are not well known and that is the focus of the empirical aspect of this study, the methodology for which is covered next.

3. Methodology

3.1. Instruments

As stated above, the central aim of this study is to investigate the practical challenges of introducing a vocational pedagogy into law courses in the form of PBL and authentic assessment, an area in which there is currently a gap in the research, as identified in the preceding literature review. This is an aim that using research methods such as interviews, which allow multiple perspectives to be acquired, and generating qualitative data (in the form of opinions, feelings and ideas, as captured in interview transcripts) seems well suited to. This approach also holds the promise of exploring this subject with more detail and authenticity than a larger scale study that relies on quantitative methods to explore the lived experiences of law teachers. The design of an exploratory qualitative study such as this one does not generate data that can be “statistically generalized” (Robson, 2011: 152) to all law teachers, as the sample is too small. Instead the purpose of this study, as outlined above, is to provide a better insight into a method of teaching based on a detailed exploration of the experience of a few (i.e. no more than a dozen) participants. This study involved interviews with law teachers familiar with traditional teaching approaches who are now working or have worked recently on courses that have incorporated PBL and authentic assessment, with questions about the process through which these changes have been and are being enacted, how their courses have been adapted or redesigned, what problems and challenges had to be overcome, and the extent to which they feel they have been successful in adapting their courses and in preparing students more effectively for the world of work. The views of the participants interviewed were then analysed, compared and evaluated in order to draw out findings for the potential benefit of law teachers and curriculum designers. This study is therefore a qualitative investigation of the change process from the perspective of law teachers.

3.2. Sampling

The main context for this study is UEL and its participants are primarily full-time, permanent staff involved in teaching and designing undergraduate law modules. To avoid too narrow a focus and too limited a sample, from the outset it was intended that teaching staff in similar positions at peer institutions would also be interviewed to give a broader context to the study in terms of participant background and teaching experience. In this sense all the participant teachers are informants: they have some years' teaching experience (i.e. they are all familiar with the academic traditions of law courses), but are also now working or have worked recently on courses that have incorporated vocational pedagogies. Purposive sampling was used to build up a sufficient sample to satisfy the needs of the project, guided by theory, so that enough information could be obtained to help in generating conceptual categories (Robson, 2011). At least a dozen subjects were sought, in keeping with the nature of this research as a small-scale qualitative study while retaining a large enough sample size to answer the research questions, with numbers split between those from UEL and other institutions for this purpose. Law teachers from other widening participation institutions were selected purposively on the basis that the needs of this research, as noted in section 1, are best served by studying teachers who work in those contexts. Rigg (2013) highlights particular factors that tend to prejudice students from widening participation backgrounds, such as personal characteristics and social and economic inequalities, who might as a result find it harder to gain graduate employment, and this was a useful prism from which to approach this study given its primary institutional context.

In the end twelve law teachers included in this research all gave their consent to participate in interviews for this study. The participants came from a broad range of backgrounds both within and outside UEL, representing a wide variety of modules at all levels including subjects such as Introduction to Legal Method (level 3), Legal Communications (level 3), Key Legal Concepts (level 3), Introduction to Professional Legal Studies (level 4), Legal Skills (level 4), English Legal System (level 4), Criminal Law (level 5), Human Rights Law (level 5), The Legal Professional (level 5), Family Law (level 6), Evidence (level 6), Equity and Trusts (level 6), Clinical Legal Education (level 6) and International Law (level 7). Half of the participants were professionally

qualified as either barristers or solicitors and had spent some time in legal practice, while the other half were career academics who did not have professional practical experience but did have expertise in teaching, designing and/or leading legal skills modules. This sample was therefore in accordance with the intended sampling strategy of selecting law teachers who were informants in the sense of having relevant teaching experience and worked in similar contexts in terms of widening participation, with a view to building up a sample that was sufficient for the purposes of answering the relevant research questions for this study.

3.3. Analysis approach

Thematic analysis was used for the purpose of analysing the data generated for this study through interviews, as my intention was to seek themes and perceptions arising from data that could be developed into guidelines as part of a framework for teaching legal skills through PBL and authentic assessment. This technique involves defining the data you are analysing, firstly by coding (i.e. applying tags or labels to the raw data in such a way as to link bits of the data to an idea that relates to the analysis (Denscombe, 2017)) and then by grouping the initial codes into a smaller number of themes, which capture “something of interest or importance in relation to your research question” (Robson, 2011: 474). Thematic analysis was used for its flexibility and usefulness in identifying, analysing and reporting patterns within data from interview transcripts. Academic opinion supports the use of thematic analysis for exploratory studies, such as this one, and it is recognised as having certain advantages, such as providing “a rich and detailed, yet complex, account of data” (Braun and Clarke, 2006: 78). Coding was a time-consuming process in itself and it then took further thought and close reading in determining the themes to ensure they were distinctive, coherent and consistent, since they needed to be refined by continually revisiting the data. Coding is about more than just giving categories to data, as pointed out by Coffey and Atkinson (1996: 31), “it is also about conceptualising the data, raising questions, providing provisional answers about the relationships among and within the data, and discovering the data.”

Following established guidelines set down by Braun and Clarke (2006) and others, there were several stages in my thematic analysis of the data. First, I familiarised myself with the data, reading the journals and noting down initial ideas, then generated initial codes. Thematic coding analysis can be used inductively, but “there is nothing to stop you starting the analysis with predetermined codes or themes” (Robson, 2011: 475) arising from relevant literature. Next, I collated the codes into a number of potential themes, which were again guided by the academic opinion, theoretical frameworks and previous studies considered in section 2. In adopting this approach I was conscious that such pre-specification might bias me towards some aspects of the data, however, it could equally be argued that prior engagement with the literature might enhance the analysis by sensitizing me to features of the data that could otherwise be missed. The final phase of the analytical process involved exploring, describing, summarising and interpreting patterns within the data.

3.4. Value of research

Throughout the analysis process, I was mindful of the need to bear in mind the quality criteria for assessing the value of qualitative research suggested by Denscombe (2017) and others. These include validity, in terms of using appropriate sources of data to offer more assurance that the data are reasonably likely to be accurate (in order to ensure credibility of data); reliability, in terms of providing a clear account of the methods, analysis and decision-making (for the sake of dependability of research); generalizability, in terms of supplying sufficient detail to enable others to infer the relevance and applicability of the findings (for the purposes of transferability of findings); and objectivity, in terms of keeping an open mind by not disregarding data that do not fit the analysis and checking alternative explanations (so as to assure confirmability of conclusions). The scope of this study is small-scale and its findings are therefore not *statistically* generalizable. As pointed out by Delamont and Hamilton (1984, p.19), however, “through the detailed study of one particular context it is still possible to clarify relationships, pinpoint critical processes and identify common phenomena” – it is considered that these

kinds of generalisations are equally valuable. While it may not involve choosing a representative sample, there is therefore still a firm basis for any claims made as to the value of a qualitative study such as this one as long as the above issues are borne in mind.

In this study I will attempt to demonstrate the quality of my research by illustrating the reliability and accuracy of methods, validity of interpretation, and appropriateness of any generalisations made. In general terms, validity means demonstrating that concepts can be identified, observed or measured in the way that it is claimed in the research; generalizability involves the extent to which some form of wider claim can be made on the basis of the research; and reliability involves the accuracy of the research methods and techniques (Mason, 2017). To these can be added the criteria of objectivity (or confirmability of conclusions), which concerns the extent to which qualitative research can produce findings that are free from the influence of the researcher who conducted the enquiry (Denscombe, 2017). As stated above, this was a qualitative study. The question of how the quality of qualitative research can be judged is not always straightforward, as the established measures of validity, generalizability, reliability and objectivity for assessing the quality, rigour and wider potential of research are sometimes seen as anathema to qualitative research (Seale, 1999). Nevertheless, as Mason suggests, qualitative researchers need to engage with the question of how they can make a convincing case for their arguments: “you will need to produce a convincing argument for the appropriateness of your methods, the meaningful nature of your concepts, the degree to which your conclusions are supported by your analysis, and so on” (Mason, 2017: 36). In view of this the alternative and perhaps more appropriate labels of credibility (for validity), dependability (for reliability), transferability (for generalizability), and confirmability (for objectivity) for qualitative research, as suggested by Denscombe (2017) and others, as mentioned above, will be referred to below.

In qualitative research, concerns with overall questions of reliability (or more accurately dependability of research) can usefully be addressed by ensuring and demonstrating to others that data generation and analysis have not only been suitable for the research questions, but also thorough and accurate (Mason, 2017). As stated above, judgments of validity (or rather

credibility of data) are, in effect, judgments about whether you are actually measuring and explaining what you claim to measure and explain. In demonstrating how particular data generation methods are a valid way to pursue particular research questions there is, however, some blurring of the distinction between validity and reliability, since this process involves reflecting on the quality of methods in relation to research questions, and on how well they produce relevant data, which can be used for constructing an explanation. Mason suggests that useful questions for researchers to ask themselves to address these issues of validity and reliability include the following: “Do you, for example, think that a particular interviewee is deceiving you? Were you able to understand or communicate effectively with a particular interviewee?” (Mason, 2017: 237). Validity also, however, involves asking how valid are both the data analysis and the interpretation on which it is based: “This means that you should be able to, and be prepared to, trace the route by which you came to your interpretation” (Mason, 2017: 240). As for generalizability (or more properly transferability of findings), as with most qualitative research, no claim is made in this study as to empirical generalisation, based on statistical representativeness, but rather to theoretical generalisation, based on strategies and logic. This concept also ties in with validity and reliability, as claims for the wider resonance or generalizability of explanations given in this study can be based on the rigour of the analysis, although to have anything meaningful to generalise “you must be able to demonstrate accuracy of method, and validity of both method and interpretation” (Mason, 2017: 242). This will be borne in mind when it comes to considering the quality and limitations of this research in section 6.

In epistemological terms, the purpose of this research was to find out and describe how something works, in this instance legal professional skills teaching. In doing so it is acknowledged that for this first purpose of the research, which involves exploring and understanding human behaviour, as soon as we start to try and describe anything, we are involved in selection and interpretation: selection of what is described and how it is approached. As such it is appropriate to describe this approach as interpretivism, as this term acknowledges the subjectivity of knowledge: reality is not a universal given; it is constructed socially (O’Toole and Beckett, 2013).

3.5. Ethical considerations

Every effort was made to ensure that this research followed the appropriate ethical guidelines, as set out in the BERA (2011) guidance, by first obtaining clearance from a university research ethics committee before any data was generated. An overarching issue is that having one's colleagues as subjects brings with it not just the immediacy of experiences worthy as data; it may also bring their expectation that they are regarded in a particular way, "even compromising the integrity of that same data" (O'Toole and Beckett, 2013: 22). There may be reluctance on the part of proposed participants to get involved, as this study comes at a cost to them not just in relation to their time but also in respect of their exposure in talking about their teaching, in terms of any reputational risk that they may have felt in presenting the more challenging aspects of their teaching. It was therefore necessary to reassure colleagues about my independence as a researcher, the confidentiality of the research and that they would suffer no detriment as a result of their participation due to their anonymity.

I also needed to be aware of the dual nature of my role in this project as both a lecturer at UEL and a researcher, and of the resulting risk that my personal connection to the research might affect both my interpretation of data and the validity of my findings. Whilst there are clear practical advantages of insider research, in terms of intimate knowledge of the institution in which the study is taking place and access to participants, the disadvantages may be substantial, particularly with regard to maintaining objectivity, given my close contact and knowledge of both the primary institutional context and my colleagues (Robson, 2011). The potential for respondent bias, as well as for subconscious bias on my part, must therefore be acknowledged, as must the difficulty of achieving fully informed consent and true anonymity (Malone, 2003). Grady and Wallston (1988) provide some suggestions for negotiating the challenges of insider research, which I bore in mind in approaching this study, including trying to foresee likely conflicts and making a plan to deal with them, recording my responses and, where

possible, getting the collaboration of colleagues from outside the institution in order to maintain an objective stance as a researcher.

In recognition of the above concerns, participants were reassured that their anonymity would be protected (e.g. by using pseudonyms in both data storage and reporting), data would be stored securely (e.g. by using encryption for electronic data), consent (including consent to record and store recordings) would be as fully informed as possible (e.g. by using an information leaflet and consent form) and involvement was entirely voluntary and could be withdrawn at any time. Interviews were carried out sensitively, in a non-judgmental manner, respecting the rights of the interviewees at all times. Subjects were also able to exercise autonomy in these situations e.g. by declining to answer interview questions and by withdrawing from this project at any time up until its end date on 1st December 2021, simply by telling me. VoIP (Voice over Internet Protocol) technology (e.g. Microsoft 'Teams') "with the ability to interview research participants using voice and video across the internet via a synchronous (real-time) connection" (Iacono, Symonds and Brown, 2016: 1) was used in light of the current COVID-19 health crisis. Whilst VoIP technology provides opportunities to contact participants in a safe, time efficient and financially affordable manner, thus increasing the variety of sampling, it was also appreciated that its use affects the areas of rapport, non-verbal cues and ethics (in terms of security of access to data and protection of privacy). In this respect Teams had advantages over less secure forms of VoIP, such as 'Zoom', as its use allowed all data, including both recordings and transcripts, to be stored securely on an encrypted university network. A further advantage of Teams was its automatic transcription function, which aided both the speed and accuracy of the transcription process greatly.

3.6. Interviews

Interviews took place following ethical approval and grant of informed consent from the participants who had been approached. Interviews were semi-structured and each lasted about thirty minutes. Semi-structured interviews have the benefit of utilising a common structure and key questions,

while allowing the flexibility for unanticipated insights to be provided by interviewees and for interviewers to “seek clarification, invite expansion or explore a response further” (O’Toole and Beckett, 2013: 133). A schedule that had been fine-tuned through a pilot interview guided the interviews. The schedule covered how teachers taught and assessed legal skills in their modules, ways in which teachers would like to enhance how they teach and assess legal skills, specific aspects of legal skills teaching and assessment practices that teachers feel have worked particularly well, what standard of work students produced in legal skills assessment tasks for the modules taught by participants, and the challenges for both students and teachers of teaching and assessing legal skills. Each interview was recorded using Teams and then transcribed, taking care to ensure that the written text reproduced exactly what the interviewees said, word for word as far as possible. The transcription process was itself the first stage of analysis, as transcribing the interviews gave me an in-depth knowledge of the data, which was useful when refining themes for later analysis. I have used pseudonyms for each interviewee in order to preserve confidentiality and anonymity of participants (Ray, Nora, Rick, Andrew, Jack, Mike, Tracy, Derek, Justin, Carol, Bob, Laura). I familiarised myself with the data collected through the transcription of the recorded files. Although this was an involved and time-consuming process, it helped me identify some ideas for potential themes. Since using memos to jot down possible thoughts about themes can be crucial in data processing (Robson, 2011) I also made notes about potential themes at this stage to use in the following phase.

All the participants were given a chance to review the Information Sheet, Consent Form and Interview Schedule (Appendices 8.2 to 8.4) and raise any queries or issues they might have before attending the interview. They were also offered the opportunity to opt out of the interview process at any time and without giving a reason. In addition, participants were provided with practical details about the location and timing of the interview, specifics of audio recording and safeguarding of confidentiality. The interviews were conducted online via Teams from September to December 2020, recorded and transcribed (a sample interview transcript appears at Appendix 8.5). To start with, I provided details about the approximate amount of time that would

be needed for the interview, about the status of each participant as a volunteer who may decide to stop the interview at any time, about recording and note taking, and about the extent to which confidentiality could be guaranteed. My first question involved discussion of how participants taught and assessed legal skills in their modules. This initial question set a frank and engaging tone as it linked the research to the teacher's own experience. The participants were given a chance to propose further topics for discussion or to request clarification.

In general, it was helpful to send the interview schedule to participants in advance, as this gave them an opportunity to consider the questions and think about their answers. As noted above, Teams largely worked very well for interview purposes, with clear benefits in terms of safety, security and transcription. Most, though not all, of the interviewees were comfortable with video as well as audio capture of their interviews and I found that it generally made no difference to the conduct of the interviews, either in terms of their length or the degree of rapport between interviewer and interviewee. If anything, the longest interviews were those that had no video element, perhaps indicating that at least some of the interviewees perhaps felt more comfortable with audio only. All of the interviewees gave their longest answers to the first couple of questions and the later answers tended to be shorter and more hesitant, either because the interviewees found them harder or perhaps because they tired out towards the end of the interview. This seems to bear out suggestions in relevant literature that online interviews may in fact be more tiring than their in person equivalents. As noted above, there is a possibility of online interviews impacting negatively upon the areas of rapport and non-verbal cues and this was born out in this study in the sense that I "lost social contact and the energy from the other person" (Iacono, Symonds and Brown, 2016: 19) to some extent.

Throughout the interviews (particularly with those colleagues from UEL with whom I had worked for many years) I sometimes found it difficult to avoid the temptation to give my own views, especially when some of the interviewees inadvertently asked me what I thought of something myself. This shows a risk of insider research that is not often highlighted in the relevant literature – that of participants and researchers forgetting that they are in an

interview and reverting to normal conversational behaviour. Nevertheless, I made a conscious effort to keep the interviewees focused and the various prompts I had for interview questions (e.g. “Can you give an example of that?” or “Why do you think that this”) helped considerably with this. As noted above, participants were generally enthusiastic about being interviewed, and this was reflected in the depth and honesty of their answers, as summarised below. Indeed, colleagues often seemed to view the interview process as a useful opportunity to reflect upon their legal skills teaching.

Having discussed the research design, methodology and ethical considerations for this study, I now present below the data analysis process and findings from my research. The following section also explains my process for deriving the analytical themes for my conclusions, since in a qualitative study analysis is often integrated with the findings.

4. Analysis of Data

I will adhere to the description of my analysis approach as set out in section 3.3 in detailing the analysis of data below. I will therefore go through each stage of the thematic coding analysis process, beginning with obtaining the sample and familiarising myself with the data, moving onto the second stage of generating initial codes, then identifying themes and ending with interpretation of the findings. All direct quotes from the data that follow are presented without correction of spelling, punctuation or grammar for the sake of authenticity.

4.1. Obtaining the Sample

As noted above, all twelve law teachers approached to participate in this study (referred to below as Ray, Nora, Rick, Andrew, Jack, Mike, Tracy, Derek, Justin, Carol, Bob and Laura) provided the requisite consent. Indeed, I was to some extent surprised by how willing, and often eager, the participants were to be involved in this study. The interviews varied widely in terms of both the length and content of the answers provided by the interviewees. It is considered useful at the outset to provide contextual information in relation to each of the interviews in the form of the brief summaries in Table 1 below of participants' gender, ethnicity, current employer, legal teaching and legal practice experience. Participants' gender is specified as 'M' (male) or 'F' (female) and ethnicity as 'W' (White), 'B' (Black) or 'A' (Asian). 'Other' refers to a London university in UEL's peer group, in the sense that it occupies a comparable position in most league tables and has a similar student body that derives largely from widening participation backgrounds, as well as being a former polytechnic and primarily teaching-focused university.

Table 1 – Summary of Participants' backgrounds

Name	Gender	Ethnicity	Current employer	Teaching experience	Practice experience
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<i>Ray</i>	M	W	UEL Other	10 years +	30 years +
<i>Nora</i>	F	W	UEL	Less than 5 years	5 years +
<i>Rick</i>	M	W	UEL	15 years +	5 years +
<i>Andrew</i>	M	W	UEL	10 years +	None
<i>Jack</i>	M	A	Other	15 years +	None
<i>Mike</i>	M	W	UEL Other	10 years +	None
<i>Tracy</i>	F	B	UEL	10 years +	None
<i>Derek</i>	M	W	UEL	Less than 5 years	None
<i>Justin</i>	M	W	UEL Other	Less than 5 years	Less than 5 years
<i>Carol</i>	F	W	Other	5 years +	5 years +
<i>Bob</i>	M	W	UEL	25 years +	None
<i>Laura</i>	F	W	UEL	25 years +	None

4.2. Familiarising myself with the data

This first stage of the analytical process involved transcribing the data, reading and re-reading the data and noting down initial ideas. I found it helpful at this stage to highlight notable features of the participants and their answers to the interview questions. All of the participants, with two exceptions, were white; eight of the participants were male, four were female; all of the participants, with two exceptions, were very experienced lecturers, having ten or more years' experience in legal education. Six of the participants worked full-time at UEL only, while four participants also worked part-time at other higher education institutions and two worked entirely at other institutions. As mentioned above, half of the participants were professionally qualified as either barristers or solicitors and had spent some time in legal practice, while the other half were career academics who did not have professional practical

experience but did have expertise in teaching, designing and/or leading legal skills modules as well as relevant teaching qualifications e.g. postgraduate certificates in higher education and/or Higher Education Academy fellowship status. Below, I have noted general features of the interviews and participants' answers, with more detailed analysis accompanied by extracts from interview transcripts appearing in the subsequent sections concerning codes and themes. What follows is an initial summary of participants' interview answers, highlighting general points of interest, which will be revisited in the later sections on generating codes and identifying themes.

4.2.1 How do you currently teach practical legal skills in your modules?

As noted above, this was the question that tended to generate the longest answers from participants. In some cases, interviewees asked me to provide some explanation of what I meant by 'legal skills', which I did by reference to some of the references covered in the literature review in section 2.1 on both 'vocational' and 'academic' legal skills. In most of the interviews I followed up this initial question with prompts along the lines of "How is this assessed (formatively/summatively)?" "How is feedback provided?" and "Can you give examples?" This allowed participants to elaborate on their initial answer in greater depth. Although my research questions as set out in section 2.5 are primarily about authentic teaching and assessment, the interview questions and answers tended to focus on practical legal skills. The term "authentic assessment" was purposely not used in the interviews as this is a specialist term that would not necessarily have been familiar to the participants but, despite this, there were examples in their answers of interviewees moving beyond identifying and teaching skills for employability and considering a vocational pedagogy of authentic assessment and elements of PBL. Although participants mainly answered this question in terms of how they currently delivered their modules, they usually also went beyond this to speak about what they were trying to achieve in the way that they were teaching and assessing. When it came to feedback, some participants made it clear that this was an active rather than passive process

for the students, with the responsibility being put on them to proactively seek out feedback for legal skills assessments.

I noted for this answer in particular, but also for some of the later answers to a lesser extent, that a few of the participants often used legal jargon which non-lawyers might have trouble understanding. This was particularly the case in Andrew's interview, especially when it came to his use of abbreviations and acronyms e.g. "GDL" (Graduate Diploma in Law, a law conversion course for non-law graduates who wish to train as solicitors or barristers) "LPC" (Legal Practice Course, the postgraduate vocational training course for future solicitors) and "BPTC" (Bar Professional Training Course, the equivalent for future barristers). For this reason I have included a List of Abbreviations in Appendix 8.1. It was notable too that almost all of the interviewees spoke about both summative and formative assessment in their answers to this question, usually without prompting. Bob indicated that he only taught legal skills formatively, as it was not assessed formally as a separate part of the postgraduate law programme that he mainly taught on, and indeed he would be averse to this happening:

There is no specific assessment for these skills and in fact I think that at LLM level, I would be very slow to have a separate assessment for skills. Instead the skills are built into the, I guess, into the learning objectives for each module and they're assessed via those learning objectives.

One common thread among the participants in their answers to this question was that legal skills, and the issue of how to teach and assess them, was increasingly becoming a focus in their teaching. This was the case for all of the UEL participants, some of whom referred to the course they taught on having recently been revalidated to include more of a legal skills component. Importantly, Carol, as an external participant, also referred to the fact that at her institution they were in a "transitional period" of introducing "more skills based modules". This seems to reinforce the point made in the introduction that skills development and employability increasingly regarded as a priority by the relevant professional and regulatory bodies for UK legal education.

Some participants, such as Derek and Justin, had only just started to lead or teach on discrete legal skills modules for the first time, and spoke about their experiences of getting familiar with the requirements of these new (to them) modules. Derek, as a module leader, felt able to concentrate on the aspects of legal skills teaching that he felt were important and chose critical thinking as a particular focus:

...we start with the workshop on critical skills, critical thinking, which I think is an essential even though a bit under-developed skill when it comes to legal skills.

It seemed telling that Derek, as a career academic with no previous background in legal practice, chose to focus on critical thinking in the teaching of legal skills, while Justin, who came from a more practice-oriented background, spoke about legal skills teaching in terms of "...the focus is on advocacy, so written advocacy, and oral advocacy". In contrast, in her interview Laura said: "I guess actually I don't teach practical legal skills", although her later answers made it clear that her current teaching did in fact incorporate this element, and this will be covered below. These contrasting answers seem to show early evidence of a distinction law teachers see between the skills needed for legal practice, driven by vocational pedagogies, and what are regarded traditionally as more academic skills. There were also clear strands in terms of what interviewees talked about – skills, employability, assessment and so on – that could usefully be revisited to form the basis for codes and themes.

4.2.2 Are there any ways in which you would like to enhance how you currently teach and assess?

Again, I found it useful to ask follow-ups to this interview question, such as: "Do students collaborate when completing formative and summative assessment tasks in the modules you teach?" and "Are students required to mimic professionals in the real world in the modules you teach?" I also asked participants to provide examples where necessary, although they were usually able to do so without needing prompts. Often this question seemed to

encourage participants to discuss challenges they were facing that had perhaps led them to think about how they would enhance how they taught and assessed legal skills, such as the coronavirus pandemic and its effect in terms of moving teaching online. This was also important in terms of the theoretical framework for this study, as set out in section 2.4 above, given that the questions in relation to collaboration and mimicking professionals in the real world tied in closely with both authentic assessment and PBL.

The interview questions were not framed in such a way that legal skills were separated from substantive law modules. However, Tracy spoke in her answer about the inherent issue in separating out legal skills from other substantive law modules. In her view, with legal skills “the idea is that they are supposed to be something that give you the foundation to carry on into other classes” but in practice this did not always happen and there was a danger of students compartmentalising legal skills modules rather than applying what they had learned there in other contexts. This was a key point, notably made by an interviewee without being prompted to distinguish between legal skills and substantive law modules by the interviewer. For Tracy, it was unfortunate when this happened, as she had also had the more positive alternative experience with students in other substantive modules that she taught and led where “you will get someone who will say oh gosh, yes, that stuff that we did in skills was useful”. For this reason the enhancement that Tracy recommended was a more “holistic approach” to the teaching of legal skills, by embedding them in substantive law modules:

So when you're looking at studying skills, there's obviously a huge emphasis on skills acquisition, but I think it needs to go hand in hand with legal reasoning and at the moment they are kind of separated.

Another enhancement, which Rick considered it important to emphasise to students, was legal language and terminology: “When you hear doctors talk among themselves, they use this shorthand language that we don't understand... and it's the same with the law”. For this reason Rick felt that it was crucial that at an early stage to instil in students the need to “learn their vernacular and use it properly”. This ties in with the ample use of legal jargon in Andrew's interview, as referred to in section 4.2.1 above, and

perhaps illustrates exactly why it is sensible for law students to be taught as a legal skill the need to be familiar with the specialist jargon in their chosen field of learning and professional practice. The answers to this question again suggested potential codes relating to subjects such as professionalism, technology and the effect of the pandemic.

4.2.3 Is there any specific aspect of your current legal skills teaching and assessment practices that you feel has worked particularly well?

Perhaps unsurprisingly, responses to this question were among the most varied in the sample, as each participant referred to particular examples of their teaching and assessment practices that they individually felt to be effective. Despite the wide range of answers under this heading, there were, as with the other questions, some common threads that added to the embryonic codes on skills, assessment and employability that were starting to emerge. Andrew had mentioned in a previous answer that in legal skills tasks he found it useful to get students to collaborate in small groups, even though this could sometimes be challenging: “I would say that for those skills to be developed properly and indeed for the students to really get the most out of it, they really do have to collaborate together”. Andrew built on this earlier comment by mentioning here that an aspect of his current legal skills teaching practices that he felt worked particularly well was teaching in a team with another of the lecturers interviewed for the purposes of this study:

So I thought between Nora and myself we worked really, really well to try and look at various different aspects of what the students were trying to do and that tag team worked to provide a very, very full response for the students.

Conversely, in Nora’s own interview, the aspect of her teaching practices that she highlighted was actually working with the students individually, particularly when it came to giving feedback: “The one to one feedback has to be the number one thing that works well”. However, even here Nora also referred to the benefits of team teaching, noting that although individualised feedback sessions with students were effective, they were also

time and resource intensive: “The difficulty is if you know you’ve got 40 students and they all take you up on it, that is quite a task if there’s just you”. For this reason, Nora mentioned that having another lecturer helping out with delivering feedback to students made this process more manageable, as she had someone to share it with, and sessions could last for up to an hour and a half per student: “So it was quite labour intensive”. While Hall (2019) and Jones (2019) among others have identified collaboration as a key feature of both authentic assessment and PBL, this has usually been in the sense of students working together in groups rather than lecturers teaching in teams, but this approach seems to be a useful aspect to think about in light of Nora and Andrew’s comments above, despite its challenges.

4.2.4 What standard of work do students produce in legal skills assessment tasks for the modules you teach?

For this interview question the following prompt was usually needed: “In comparison with other more abstract/theoretical types of assessment tasks?” This was not always an easy question for participants to answer and it was often one of the shortest answers that they were able to give. Here, some interviewees were only able to talk about the standard of work students produced in one type of task, as they sometimes only taught or assessed either a legal skills assessment or a substantive law assessment, and in some cases neither. This seems to suggest that interviewees either did not promote authentic assessment or were perhaps unfamiliar with the concept, apart from Laura to some extent, as demonstrated by her response to the next question, referred to in section 4.2.5 below.

Ray provided what might be regarded as a more typical or representative answer to this question when he indicated that in his experience students tended to perform somewhat better in assessments for legal skills modules compared with the standard of work they produced in other modules:

Yes I think that it's probably easier for them in a way because there's not so much heavy, black letter law for them to do, it's on a wider plain, it's on a wider spectrum.

In Ray's view the reason for this might in part be because they found the content of legal skills modules less difficult, but also he felt because students also had more enthusiasm for such subject matter: "I think that their imagination captures them a bit more". Jack reinforced this point by saying: "students are much weaker in essays", although he did not necessarily put this down to the nature of the assessments or curriculum content, but more to the individual student: "these could be students, you know, who are not very well engaged anyway".

4.2.5 What are the challenges for both students and teachers of teaching and assessing legal skills?

The challenges of teaching online as a result of the COVID-19 health crisis once again resurfaced in participants' answers to this question. Justin, for example, stated: "I just think we can't hide away from the fact that in the current climate there are the technical challenges and that is just the reality". Justin found this particularly challenging, as he personally preferred teaching in a classroom to teaching online and while he could understand that it was necessary and even perhaps more efficient in some senses: "I don't think you can recreate that classroom environment on a computer screen". Ray also referred to the challenges inherent in use of information technology, but in a different sense, related to employment after students left university:

I think that particularly today the challenges are greater than when I first started out in the legal profession, because there are multifarious skills you need now, you need IT skills, we have an AI revolution coming now and all this sort of stuff.

The effect of the pandemic in terms of technology was not the only challenge to legal skills teaching that interviewees mentioned in the context of COVID-19. In his interview Jack stated: "I think this COVID has forced us to change and then I think that's perhaps allowed us to move into new territory

quicker and obviously with less resistance". The sorts of changes Jack was referring to related to the "skill set" needed by aspiring lawyers and the "vision of the future" for the legal profession, all of which would he felt affect both the way in which the subject was taught at university and whether it continued to remain a popular choice of degree for students to study. Some of the skills mentioned here were at least partially new, when it came to ICT skills in particular, but participants mostly seemed to be speaking in terms of more thoroughly integrating legal skills into the curriculum. Derek also referred to this challenge of getting students invested in legal skills module, not just from a student engagement perspective, but also for teaching and learning reasons:

But then the challenge is that you never know where a student has strength in terms of substantive knowledge, you never know if they will find a topic interesting. So it's always challenging to find a topic that will get the students to engage with issues that are controversial.

Laura again raised some thought-provoking issues in her response to this interview question, which echoed some of the challenges of authentic assessment and PBL in terms of design, implementation, assessment and evaluation, as identified by Feletti and Boud (1997) and others, as mentioned in section 2.4.3. Firstly, she queried whether there was at present the time and space in the curriculum and academic calendar to consider whether the practice of legal skills teaching and assessment actually matched up to the theory underlying it, both "in terms of the skill that you're wanting them to learn" and how this was learned by students. In earlier answers Laura had referred to "authentic" teaching and assessment but commented here that she was not sure how authentic this was in reality. For example, one of the assessment tasks Laura used in her modules was an oral presentation, where students took on three roles but this was for pragmatic reasons rather than necessarily to simulate the realities of practice: "they didn't know until the day which they were going to be asked to do, so they had to kind of pre-prepare to be any... I'm not entirely sure that's that authentic to be honest." This was one of the only references any of the interviewees made to the concept of "authenticity" in the context of authentic assessment. Mike made the other

when he mentioned that, despite having some misgivings about online teaching, it could be argued that this is every bit as authentic a learning environment as a physical simulation in the classroom, given that businesses in the real world are increasingly adopting online working practices. This potentially highlighted the authenticity of the use of online simulation by legal education providers, given that legal workplaces were similarly adapting to change by moving to online settings.

4.2.6 Is there anything else that you'd like to add that we have not covered but which you think may be relevant?

Perhaps unsurprisingly, given the open-ended nature of this question, the answers under this heading varied the most in length and content. Rick, Derek and Laura all had nothing to add when they were asked this final question in their interviews. Ray used his final answer as an opportunity to talk again about the changes happening as a result of the digital “revolution”, not so much in terms of online teaching, but more with regard to what is now happening in the legal professional workplace, which students and staff alike need to be cognisant of:

A lot of things now are documents only, they're done online, we have Zoom meetings, we have mediations for instance all done by Zoom I think... So we are becoming more digitalised, it's not necessarily a good thing because you like personal contact but I think that they have got to be more aware.

Ray talked more here about his recent interactions with legal practitioners, who had emphasised the importance of working remotely via online platforms – a solicitor colleague for example had informed him that out of a hundred staff in the firm only twenty people are now based in the office, while another who had invited him to a new office that had just opened said that in five years the site would not exist. For Ray, this represented “the new frontier where we may have to think about things in the future” as law teachers would need to think ahead about how these changes in the legal profession would change both legal education and legal practice in the future. Again, this provided more

material for a code concerned with technology and its impact on legal skills teaching.

Tracy made a separate but equally thought-provoking point at this stage in her interview about the drive to teach legal skills and make students employment-ready and the motivations behind this at policy making level:

But you can't help but think that the people who are insisting on you know you must make sure that the students have skills they must be industry ready, who made these decisions? Who made these statements? Do they send their children to such institutions?

It was interesting that Tracy wanted to talk about these issues, as she had earlier in her interview indicated that she felt legal skills had a clear and valuable role in legal education, and indeed this was why she had taught them for most of her career as a law teacher. For Tracy, however, the institutional drive for teaching legal skills potentially threatened the reason and value behind this element of legal education, as it was not about “imposing” this kind of thing but rather: “It's about saying to students when you see something, why is it being said?” As well as expanding the potential for a code based on employability, Tracy's comments here went back to the contested nature of the very concept of employability and the competing agendas behind this as mentioned in section 2.1, with no agreement for instance on which skills and attributes are most likely to increase graduate employability (Knox and Stone, 2019).

4.3. *Generating initial codes*

After familiarising myself with the interviews through detailed reading of the transcripts, I made notes of what stood out in the data – in particular aspects that might form the basis of repeated patterns such as specific events, activities and behaviours i.e. what the law teachers did and said. This part of the analysis involved organising the data into meaningful groups i.e. codes, which refer to “the most basic segment, or element, of the raw data or information that can be assessed in a meaningful way regarding the phenomenon” (Boyatzis, 1998: 63). Since I was coding manually, I wrote

notes on the texts I was examining and used highlighting to identify potential codes and themes (examples of coding appear in Appendix 8.6). I bore in mind during this process that it was necessary to code for as many potential themes as possible (Braun and Clarke, 2006) and that extracts of data needed to be coded inclusively to avoid losing the context in terms of the surrounding data (Bryman, 2016). Extracts from the data were given codes in a systematic fashion across the entire data set, with similar extracts being given the same code. Ten initial codes were generated during this phase of the thematic analysis, which were used to form the basis for developing themes in the next stage of the analytical process. These were: technology, pandemic, employability, professionalism, student engagement, widening participation, vocational skills, academic skills, authentic assessment, and problem-based learning. All of these codes had sub-codes, expanded on in the detailed coding notes that follow, and each code also linked in with the themes that were developed.

4.3.1 Technology

This code was made up of data concerning use of technology for legal skills teaching and learning, particularly technical issues encountered as a result of the pivot to online delivery during the pandemic, and can be divided into sub-codes on student technological literacy and staff use of commercial technology.

Student technological literacy: In a wide sense, participants talked about simply using technology in their teaching e.g. Tracy referred to using online databases for legal authorities such as Westlaw and LEXIS to develop their research skills and Andrew talked about buying software such as Practical Law “because these are ways to make sure you can actually have practice based assessments built into a module”. However, the data within this code was more specifically related to the challenges presented by use of technology in legal skills teaching. For example, in his interview Rick spoke about how he was still getting used to using teaching and learning technology in his sessions at a very basic level:

I mean at the moment I personally I'm getting by using the technology in a very simple and straightforward way. And I think I may have said, you know, I say to colleagues very much with my tongue in my cheek, but I am deadly serious that when I go on to teach a lecture or seminar I just ask the students two simple questions: Can you see the slides and can you hear me? And if they answer affirmative to both of those, then I carry on.

For this reason Rick said he wanted to keep things “as simple and straightforward as possible” when it came to use of such technology, as it in his view could become very complicated. This could have an effect on students as well as staff in Rick’s opinion as, in his experience, there were “different levels of ability”, which is why he wanted to keep things simple. However, the coronavirus pandemic had accelerated the use of technology, demonstrating a link between these two codes in Rick’s interview, which will be discussed further below, as well as by Mike.

Staff use of commercial technology: Throughout his interview, Mike spoke about the challenges both of teaching solely online and of combining simultaneous online and on campus delivery in the same session in the form of “dual delivery”.

I do find it difficult and I don't know how useful this will be, but I find the dual delivery system particularly difficult for running seminars. Because of technical issues mainly, I've been in rooms where the students are not miked and so the people online can't hear the people in the class and vice versa. Sometimes as well, although I've now managed to fix that so the people in the classroom can hear the people online. But then there are problems, as you know, with noise and interruptions and connectivity and so that is a problem.

Mike also identified the online teaching platform of choice at UEL – Teams – to be problematic even when it came to teaching solely online, because it did not (at that time) have the same capabilities of alternatives that he had used while teaching during the COVID-19 health crisis at other universities e.g. Zoom, which had functions such as breakout rooms that allowed online students to talk to each other as well as to their lecturers. The trouble with Teams for Mike was that such student interaction was not possible on this platform, which impacted on the effectiveness of his seminars, “because I find that in big groups not everyone can or wants to voice their opinion” and he felt

that in the seminars it was important that everyone did get the opportunity to talk through things, which was how his seminars would normally be conducted.

I mean, obviously if we were back in sort of normal times, if we could all be in the same physical location, you could put people into small groups. So you go in that corner, have a chat about this, come back and give us a summary of the interesting points or whatever.

Mike's comments here link in with literature about the potential pitfalls of small group teaching. When a session is based primarily on participation there is a recognised danger of little value being gained where students are unable or unwilling to contribute. Some students may dominate discussions at the expense of other students who are either less confident or less able. There is a possibility in such circumstances that students may have a negative learning experience, which leaves them feeling alienated, frustrated or confused. Brookfield (2001) suggests that student interaction in group discussion can be a mixed blessing, as he points out that: "The longer one stays silent, the harder it is to make that first contribution" (Brookfield, 2001: 70). For this reason Brookfield stresses the importance of establishing ground rules to guide student interaction in discussions, and this would appear to be equally important in an online context.

4.3.2 Pandemic

This code, relating to the coronavirus pandemic and its effects on legal skills teaching, can be divided into two sub-codes concerning rapid change and future predictions.

Rapid Change: Mike talked about the challenges of the ongoing COVID-19 pandemic and its effect in terms of moving teaching online. More specifically, the decision of UEL to adopt a "dual delivery" model of teaching some classes simultaneously both online and physically on campus led to some issues that Mike spoke about in some detail:

For me, that's the main thing and I get very anxious actually about this dual delivery because I feel that I want to get everyone involved and for me to be able to communicate with them and then to be able to communicate with me and with each other. I think that is an issue and I get anxious about that...

For Mike, dual delivery presented technical and communications problems for both students and staff and also impacted on the effectiveness of tasks involving collaboration. This compared unfavourably with Mike's experience at another university at which he worked part-time, where dual delivery was not used and online teaching was in his view more successful because:

...they were all encouraged to have their videos turned on and everyone who was there actually used it. Everyone was there and you could see everybody's face. You knew everybody's name. It was all equal.

Like Mike, Rick talked a lot about the challenges presented by the ongoing coronavirus pandemic, even going so far as to say that when it came to speaking about teaching and assessing legal skills it was necessary to discuss it in terms of "before COVID and after COVID". Before the pandemic hit, Rick said that there was lots of collaboration and group work in his seminars but since then he had found it difficult to do this in online classes. Despite this, as a former legal practitioner, Rick considered it important to relate the tasks that students did in the classroom to what legal professionals do in the world of practice:

...when we do carry out exercises I do explain to the students why we're doing it and I do explain to them very much that this is, you know, the skills that we are attempting to or beginning to cultivate are skills that will see them right through not only their academic studies but in to professional life as well.

Future predictions: As noted above, Rick and Mike spoke about the effect of the coronavirus pandemic on their teaching at the greatest length, mostly in terms of its technological impact, but a number of the other interviewees also mentioned COVID-19 at various points, including Jack, Ray and Tracy. In relation to doing group work with students in seminars, Jack

commented: “Obviously at the moment with COVID it's a bit more difficult. Well, it's different”. Notably, Jack's comments on the health crisis were phrased more in terms of its impact and how to adapt to it, rather than just focusing on the negative or disruptive impact of the coronavirus on legal education, and even to some extent looking for a positive or upside:

I think this COVID has forced us to change and then I think that's perhaps allowed us to move into new territory quicker and obviously with less resistance.

When asked to expand on this topic Jack made further points about how the effect of COVID-19 could be felt in more areas than just in terms of teaching more online, as it had also made him think about things like how better to approach assessment, making himself more available to support students, and also training and supporting junior academic colleagues.

In contrast, Tracy mentioned COVID-19 only briefly and in the individual context of its effect on her own teaching, in that a legal research session she had planned in the university library had to be cancelled due to campus lockdown. Ray, however, also chose to focus less on the negative or challenging aspects of the health crisis and more on its wider impact, in particular how it had changed legal education and practice:

We have seen all of the problems that we have had during this pandemic about teaching mostly online but I think that's going to come anyway. I think that a revolution is on the way; it's like the invention of the telephone.

Ray also repeated an earlier point about teaching and professional practice increasingly moving online, but this time contextualised it by reference to the coronavirus, by saying that these things were happening anyway but that: “this pandemic may accelerate that I think.”

The comments of participants as set out above reflect the points referred to in section 1 as having been made by academics since the start of the pandemic, with both negative and positive effects being identified. There was certainly evidence of optimism and empathy among the law teachers interviewed for the purposes of this study, as in that by Cutri, Mena and

Whiting (2020) referred to above, while equally recognising the potential for taking risks and making mistakes. However, more concerning is the likelihood that there may be difficulties in meeting the challenges of increased expectations of graduate employability skills on the part of law firms, as mentioned by Cantatore *et al.* (2020) in section 1, in view of the significant practical issues of doing so as raised by the participants in this study.

4.3.3 Employability

What tended to fall under this heading were instances of participants referring to how ready their students were for the workplace, as well as the skills that would better prepare them for employment i.e. both employability and work-readiness in the sense described in section 2.1 above.

Work-readiness: Under this sub-code, for example, Nora talked about how students were interested in the “idea of commercial awareness”. Nora mentioned this because she also felt that the current approach to assessment in legal education was driven by what law firms wanted. For this reason she felt that “commerciality” was important and needed to be better integrated at undergraduate level; this was something that she felt was missing in legal education. This ties in with some of the issues raised by other interviewees that were more specific to preparation for the legal profession, which will be covered below. Ray also talked about commercial awareness in his interview, in that a lot of what he taught students in the classroom was so that “it’s not such a big culture shock when they leave university from an academic background into the more practical background, and into the commercial background as well”.

Employability agenda: In Tracy’s interview, when it came to the question about the challenges for both students and teachers of teaching and assessing legal skills, she talked about “the employability agenda and you get institutions such as ourselves talking about their careers focus and links to industry”. Tracy said that she could understand why there was a focus on these issues at universities because they were “judged in terms of outcomes about you know the proportion of students that are going to graduate jobs”. However, while Tracy recognised the policy reasons behind the focus on

teaching skills as part of the employability agenda, she said this represented a big difference from how this issue was approached when she was at university herself:

What I do think that that debate misses is like when I did my law degree and I was surprised when I saw kind of, after being outside of it, I came back into academia, was the emphasis on skills because we were just basically told go to the library and this is a law report, this is a statute and so on.

Tracy also commented on the seeming artificiality of the employability agenda, at least in terms of how it was being driven by employers. Tracy felt that employers were to some extent being “disingenuous” even when they said that they wanted students to be taught skills at university before they were in employment as, in her view, the reality was that “everybody’s got the way that which they want someone to come and do the job in”. This would certainly seem to suggest, at least from Tracy’s perspective, that focusing on student’s readiness for work seems to be a more fruitful focus when it comes to legal skills teaching, to encourage in law students the personal attributes or intrapersonal factors referred to by Caballero and Walker (2010) and mentioned in section 2.1 above.

4.3.4 Professionalism

Two sub-codes relating to professional training and legal language and public speaking were identified within this code relating to professionalism.

Professional training: In relation to this code, as mentioned above, Andrew was one of the interviewees that spoke at length specifically about preparing students for the legal profession, referring to subject-specific knowledge and standards as well as skills and competencies. For instance, Andrew mentioned the challenges that the newly introduced Solicitors’ Qualifying Examination (SQE) would bring:

The other thing though is if we are going to be professionals, I do feel that because of the nature of what’s happening with the SQE we are

beholden as universities to maybe pick up gaps that the SQE is going to be potentially creating.

As stated previously in section 1, this new 'super-exam' is a central assessment designed to test whether students have met the standards set out in the Statement of Solicitor Competence set out by the professional bodies. This was clearly a development that Andrew felt would have implications for institutions in terms of how legal skills were taught and how prepared law students would be for legal professional practice after university. In mentioning "gaps" here Andrew was referring to the increasing focus needed on training students to become legal professionals while they were still at university, rather than this being the traditional focus of postgraduate vocational training, so the issue identified here was professional training at undergraduate level.

Legal language and public speaking: Rick had already spoken about the importance of legal language and its correct usage for law students ("it's very important that they learn their vernacular and use it properly") but he went further than this to mention public speaking generally and the link between this and how he taught and assessed legal skills as an aspect of legal professionalism:

You know, if you aspire to practice the law, especially if you want to go into any kind of practice at all, you're going to have to stand up in front of strangers and talk and it's a scary thing. If you feel that you cannot do it, if you're a wilting wallflower, then perhaps you know go into some other area of endeavour.

Rick alluded to this as a partial explanation of why he made extensive use of oral assessment, both formatively and summatively, in his modules, because of its importance to legal practice: "I always try again to instil in them that this is what proper lawyers do". Also, though, he utilised this approach precisely because of its unfamiliarity to students and their consequent need to get used to it: "a lot of these people haven't spoken in front of a room full of people other than family ever and they find it very difficult".

The importance of language and its use in legal education has often been stressed in the relevant literature. The need to focus on teaching

language skills has been identified by Farran (2013) and Lewinbuk (2007), who have both underlined the need for future legal professionals to be able to think in the same language in which they intend to practice the law. It is also worth making the point, in the context of this study, that the language of feedback is likely to be especially unfamiliar to students who have little experience in a formal educational setting prior to entering higher education, particularly in a complex subject such as law, often studied for the first time only at university. This highlights the need for greater efforts to tailor feedback for those from widening participation backgrounds and it is also a strategy that seems to align with that of the appropriate professional body for UK higher education. The Higher Education Academy ('Advance HE') state that their inclusive approach "strives towards proactively making higher education accessible, relevant and engaging to all students" (Thomas and May, 2010: 5) and feedback is highlighted as one of the aspects to be considered in relation to developing and implementing inclusivity and diversity in teaching and learning.

4.3.5 Student engagement

This code contained examples both of participants talking about how engaged their students could be and how difficult it sometimes was to achieve this level of engagement, represented by sub-codes relating to motivation and confidence.

Motivation: Tracy, for instance, said that for first year law students in particular "the reading is a very difficult thing for you in the beginning to get them to do because they really just get overwhelmed by it". Tracy approached this by telling her students that reading was an activity that aided their learning development but acknowledged that it was "difficult initially to get them to really properly engage". Tracy also focused on the importance of students learning argumentation skills but made a different point about the contribution students reading around their subject made to the development of such skills:

...you do try to say to them that I could tell you every single thing I know, but you're not going to learn it only through what I say, but obviously through reading and getting them to realize that reading is also a skill, but it's also a practical activity which is going to aid their learning development as well.

Tracy acknowledged that there were challenges in getting students to engage in this process. In particular Tracy felt that there was a risk that: “what you're going to get is one or two people who do all the reading”. For Tracy, it was however an important aspect of getting students to know how to argue in an informed way, by referring to cases, substantive law and concrete examples to back up their opinions rather than them just trying to “batter each other down into submission”.

Often, the data relating to this code came in response to the question interviewees were asked about what they considered to be the challenges of teaching and assessing legal skills. For example, in her response to this question Carol said that, when it came to legal skills teaching:

I think one of the biggest challenges we're having, and probably we're going to keep having going on into the future, is getting people to see the point of doing it.

This was particularly the case, Carol felt, when it came to legal skills teaching, as increasingly students were coming to university having spent time in the workplace, so it was a case of getting students to see why it was that teaching something via skills would actually probably help them to get the legal knowledge as well. It was for this reason that for Carol: “I think getting a mind shift and getting people to understand the purpose of it is probably the greatest challenge we have at the moment”. It was clear here that for Carol the purpose of legal skills teaching was closely linked to preparing students for practice and she seemed to find it challenging to get students to see it in the same way.

Confidence: Mike made a relevant point about the relationship between assessment and student engagement in his interview: “I think there's an issue about overcoming anxiety regarding assessment” and also talked about a phenomenon that he referred to as the “Halo and Horn” effect, which

presented challenges for law students and teachers alike. The “Halo” aspect Mike described as a tendency for students to over-rely on their charisma or natural charm and for lecturers to be taken in by this:

Well, the Halo thing is, you know, if [a student] says something that's good, you think everything else is good because they just said this wonderful thing and you were like, oh wow, this person is wonderful.

The “Horn” meanwhile was the opposite in terms of “if they say something, do something terrible and then you kind of go, well, this person is really, so anything that's mediocre, you go well this is terrible too”. This phenomenon particularly affected students who were less confident or able in the first place, as well as lecturers’ perceptions of them. As mentioned above, Mike had spoken also about getting less input and interaction from students in online seminars than when they were physically on campus, although he did not make a specific link between this and the “Halo and Horn” effect.

These comments link in with the next code on widening participation. Student disengagement is an issue in the teaching of legal skills that has been highlighted in the relevant literature (Travis, 2016), especially when it comes to students from widening participation backgrounds. It has been suggested that, based on their backgrounds, “not all students placed the same importance on professional values such as diligence, respect for (others), clear and timely communication and time management” (Rowe, Murray, & Westwood, 2012: 125). Students also need to be made to understand that meeting deadlines, treating both staff and other students with respect, and submitting work of an acceptable standard are marks of professionalism and the expectations of legal practice, “they are not simply demands universities make for their own sake” (Baron and Corbin, 2012: 111). A restricted choice of appropriate extra-curricular opportunities has also been proposed as one explanation for lack of involvement in university life on the part of widening participation students (Redmond, 2006). In addition, Ferguson (2017) argues that in order to be able to make the most of the available opportunities, disadvantaged students must engage fully with the less academically-centred aspects of university life, such as sports and student societies, and should be supported in doing so.

4.3.6 Widening participation

The main context for this study is a university with a high population of students from widening participation backgrounds, and its peers with a similar student body, and this code contained interview data relating to the specific challenges of teaching legal skills to students from such backgrounds. Widening participation is “a generic term used to signify a range of national and local initiatives designed to recruit students from non-traditional social, economic and ethnic backgrounds into higher education” (Redmond, 2006: 119). In terms of policy, widening participation has its origins in the Dearing Report (National Committee of Inquiry into Higher Education, 1997). This recommended that the government should introduce policies that encourage and support students from disadvantaged backgrounds, whose social demography, amongst other things, had traditionally denied them the opportunity to attend higher education and, consequently, “It is now a requirement of the Higher Education Funding Council for England (HEFCE) that universities have a widening participation strategy” (Bowers-Brown, 2006: 70). Legal education is just one aspect of widening participation, as demonstrated by the fact that in the last twenty years or so an increasing number of students now attending university law schools are the first to do so from their families or are formerly under-represented learners (e.g. working class, ethnic minority or disabled students) (Waters, 2013). Sub-codes that fed into this code concerned curriculum design and emotional support.

Curriculum design: Laura talked about how she had done a lot of work with students around essay writing skills, because: “the thing that I find with most of our students is that the difficulty they have is in framing an argument”. She felt that there were, however, inherent challenges in doing this, because UEL students were “time-poor” and they did not always seem to see the benefit of doing work unless they received a summative grade for it: “If you made it just formative, they won't do it because they see no value in getting it right the first time”. The key for Laura therefore was “using an assessment method that enables them to have both formative and summative assessment” in the sense that students would do a first piece of work that

they would receive some feedback on that would be connected in some way to their final summative assessment and would contribute to their summative grade. For Laura, this appeared to be a worthwhile exercise as, although it was “a painful process as a learning process sometimes” it seemed to have clear benefits: “what I'm saying is that we have definitely seen massive improvements in marks between the two assessment points”. Laura spoke about how she had adjusted her teaching to take account of these factors:

The students you know, like the idea that you're actually working with them on an individual basis and recognizing their individual strengths and areas for improvement.

Given the primary context of this study – mainly involving students from widening participation backgrounds – Laura’s comments seem to identify a key challenge of teaching skills, as well as suggesting a further theme to revisit given that they follow on from Tracy’s comments above on student engagement, again highlighting a thematic relationship between the codes of widening participation and student engagement.

Emotional support: Tracy warned about the risks of focusing too much on legal skills teaching when it came to students from widening participation backgrounds. Tracy said she sometimes felt frustrated when universities concentrated on career-readiness and employability to the exclusion of all else:

I feel strongly about the fact that we talk about widening participation, we're talking about non-traditional students. We are talking about priding ourselves on giving an opportunity to students about being the first to go to University.

This frustration for Tracy arose particularly from the fact that former academic leaders within the university had made such comments as: “if they want an academic education they can go to UCL and you're like, well they're still coming to university.” Comments like this concerned Tracy because they implied that students at universities such as her own should be treated differently just because of their backgrounds, by focusing on legal skills to the exclusion of other more academic content in the degree, as her feeling was:

“why can't we just concentrate on giving the students an education?” Nora also made a similar point in comparing the university with others that had students from more traditional backgrounds and more resources to draw on, especially when it came to delivering assessment feedback:

...the challenge is the labour intensive aspect of it. That is actually a challenge. I mean because obviously Cambridge and Oxford famously do one to one... but it's just in terms of us, the only way of doing this is if we do it and that I don't know how sustainable that is. That's the problem. It's very labour intensive to introduce skills in the right way...

The above comments from both Laura and Tracy highlight the relevance to law students from widening participation backgrounds of other factors, such as the increasing call for resilience training for lawyers in response to a gap in legal education: “there is a general acceptance by researchers, academics and the legal profession that law students would benefit from greater resilience and stress management strategies” (Evers and Townsley, 2017: 32). The first year of law study has been identified as a time when students may be particularly prone to experiencing psychological distress, such as anxiety and depression, largely attributed to workload and the highly competitive environment within many law schools (Baron and Corbin, 2012). Since widening participations students are therefore some of those likely to be most in need of support when they first start university, it is necessary to facilitate the development of their professional identity as future legal professionals.

4.3.7 Vocational skills

The evidence here tended to consist of participants discussing the sort of ‘soft skills’ required for the workplace referred to in section 2.1 above as being designed to enhance students’ creativity, powers of persuasion and problem solving abilities (Tsaoussi, 2019) and described as either personal or interpersonal (Schneider, 2012). Two sub-codes that were identified concerned adapting to change and summative assessment.

Adapting to change: For example, Carol talked about how at her institution the method of teaching had been adjusted recently so that the seminars were now two-hour workshops that were “designed to be a little bit more like a supervisor-trainee relationship rather than the traditional sort of tutor-student one”. This involved changing both the way that legal skills were taught and the content of the sessions:

And we've got a virtual practice environment so they'll be sent sort of fake emails from a fake supervisor that they have to do something with before they get to the class... So there's a lot more incorporating things, like drafting, bits of interviewing things even, into the sessions, so all very new.

Carol was referring here to changes made to the curriculum to perhaps more authentically reflect a real world workplace by simulating, for example, a supervisor-trainee relationship in a law firm. Carol said that the reason why these sorts of changes were now being made to teaching at her institution was because of wider changes in the profession, with more emphasis on teaching legal skills and fewer restrictions on the structure and content of the degree being imposed by the legal professional bodies, largely as a result of the forthcoming introduction of the aforementioned SQE. This had encouraged a review of the way that legal skills in particular were taught and assessed at Carol's institution.

Summative assessment: In his interview Andrew indicated that he also tended to focus on development of vocational skills in law students, but for his module this was directly linked to preparation for summative assessment:

So the meeting with clients, the mock trials and the moots, the writing of client letters they're all of which are formative, but reached as part of the portfolio to be summative as well then they are part of a continual learning process that really shows that legal skills are essentially what you're developing to see how you apply what you learned in practice.

Andrew made a link here between what students were learning in the classroom and what they would apply in legal practice in order to contextualise vocational skills to demonstrate practical outcomes: “to show how you actually use your knowledge, but also make it accessible to the

client”. Again, this seemed to illustrate that vocational skills teaching was happening by way of authentic assessment – the very use of terms such as “client” seemed to indicate this attempt to create authenticity in the classroom by reflecting realities of legal practice. Another point that Andrew emphasised with regard to vocational skills was that it was about “continual practice”, with students at the beginning of the module needing a lot of support initially, with lecturers having to spend a lot of time working with them: “but towards the end, despite their complaints about it, they were being fairly left hands free and ended up doing really well”. It is perhaps relevant here that the module in question was clinical legal education, which is a ‘hands-on’ module that took place primarily in the learning environment of a pro bono law clinic, with the students doing practical tasks such as interviewing real clients. Although Andrew’s comments here echo the point made in section 2.2 above that employers are placing an increasing emphasis on recruiting graduates who have soft skills (Tomlinson, 2008) he does not necessarily address the problematic nature of context-free statements of skills learning outcomes and whether the skills students learn are genuinely transferable, also as pointed out by Knight (2001) above.

4.3.8 Academic skills

The data in this code consisted of participants discussing the sort of academic skills traditionally associated with legal practice, such as legal research, advocacy and reasoning (Tsaoussi, 2019) i.e. ‘hard’ skills in comparison with the ‘soft’ skills considered above. Sub-codes here focused on legal drafting and formative assessment.

Legal drafting: Rick, for instance, said: “I tend to do a little bit more of the hard kind of skills” both in terms of oral advocacy and legal drafting. In doing so, Rick stated that he would take care to demonstrate the link between what students were being asked to do and the real world of legal practice:

I do a lot of drafting with them. I tend to use the civil particulars of claim as a backdrop to several classes, actually, in the context of how they’re drafted, what their purpose is as a form of legal communication, quite literally, and what elements should go into it.

Rick also mentioned that, as he himself had a background in legal professional practice, the tasks that he gave to students in seminars would mimic what professionals did in the real world and this for him was a crucial part of teaching legal skills. For example, when it came to doing legal drafting exercises with the students:

I do explain to them very much that this is, you know, the skills that we are attempting to or beginning to cultivate are skills that will see them right through not only their academic studies but in to professional life as well. That this is what proper lawyers do, this is how proper lawyers operate.

It was significant that one of the other participants who had previously practiced as a legal professional before entering academic life also seemed to take a similar approach when it came to legal skills. Ray said that when he taught law students legal skills he would also tell them “how things are undertaken in the office”. The modules Ray taught were primarily discrete legal skills modules in any case but it is notable that even so, every time he spoke about an example of his legal skills teaching, he would give an example related to professional practice. So, for example, when he mentioned writing and drafting he referred to giving students exercises involving drafting submissions or pleadings, when he gave them quizzes to do it was to encourage teamwork and so on, the idea of each of the exercises in question being not only to do them for their own sake:

But basically it's to tell them what the duties are of a solicitor, what the duties are of a barrister, how their functions operate and differ, what they're expected to do in the office in terms of instructing counsel, in terms of conveyancing, property, things like that.

Formative assessment: It was also noteworthy that even the participants with no background as qualified legal practitioners still seemed to focus on the same sort of skills here as their counterparts. Bob, for example, taught legal skills to postgraduate students in standalone workshops on substantive law modules, which were nevertheless fully integrated into the course of study:

The workshops are actually quite central to the course because on the Masters programme there's a lot of students who don't come from legal backgrounds. They come from all different disciplines, and the workshops are meant to make it possible for them to engage with international law at a pretty high level actually.

Bob's workshops did not take place during lectures and seminars, as they were timetabled as separate events, but they fed into the module content because they covered the sorts of skills he felt students needed in order to understand the subject. These skills included reading, research, referencing, legal reasoning and argumentation and, although they were not assessed summatively, for Bob they were "an absolutely fundamental part of the international law programme" built into the learning objectives for individual modules. Although discussed here as academic skills, they could be regarded as equally important for legal practice and in this sense were also vocational skills (although the distinction seems to be that these were regarded as being for more general application, rather than contextualised for a career in law like the vocational skills discussed above). Also, despite being an example drawn from a postgraduate course, the skills to which Bob refers are equally relevant for undergraduate students, especially in view of their vocational application. In the context of this study it is also worth pointing out that these academic skills seem to be essential elements of a liberal legal education, which as mentioned above focuses on "developing skills of knowledge acquisition through research, critical thought and debate" (Guth and Ashford, 2014: 6). Therefore, despite the increasing attention on vocational skills teaching in the undergraduate law degree, it seems clear that participants in this study still place equal, if not more, value on academic skills teaching for law students.

4.3.9 Authentic assessment

This code contained examples of participants talking about how they assessed students in an authentic manner, in the sense of replicating what students will be required to do in the work place with assessment based on real world activities, having the sorts of features identified in the literature

review, such as collaboration, reflection, real life application and multiple possible solutions. There were plenty of examples of these, as most of the participants talked about their experience of using this type of assessment, mainly under sub-codes relating to collaboration and oral assessment.

Collaboration: Andrew's module, for example, involved students collaborating in order to interview clients in the real life setting of a law clinic, and then reflecting on this experience afterwards in a journal. As mentioned above, Andrew said that students struggled with this type of assessment initially, reflecting some of the challenges of authentic assessment identified above in relation to its self-directed nature and the burden that this places on students (and staff). Overall, however, Andrew felt that the results were very positive:

It was a very, very useful module and it did help develop the students in a big way and whilst they hated us at the time because of the amount of work they said, or the perception about the amount of work that was required, they really felt the benefit of it as they went on to the next step as paralegals or whatever.

Other interviewees mentioned that they used reflective reports as methods of assessment, including Justin, although he also commented that there was scope for enhancement, as "at the moment the assessment seems to be obviously paper based." Reflection is considered further in the next section, but the reflective reports referred to here carry the potential for authentic learning if they involve reflection on tasks that mirror real life practice. Justin felt that there was value in adjusting this assessment so that it included "an actual practical spoken advocacy exercise" so that students "can demonstrate those skills in so many different other areas." This is significant, given that, as mentioned above, for McNamara (2017) whether higher order thinking, reflection and self-assessment are integrated seamlessly with tasks is a key aspect of identifying the authenticity of an assessment task.

Oral assessment: Participants also spoke about how they had actually used oral assessment in their modules to simulate real world experiences for students. Nora, for example, said that her students performed an advocacy exercise in an actual courtroom in the form of a mock trial at The Old Bailey.

Although this was a formative rather than summative exercise, “which doesn't go to their grade but is part of the legal skills that they learn,” it appears to have a lot of the characteristics of authentic assessment in terms of complexity, team work and real world relevance:

...it's kind of like a team effort in the sense that they all have roles. So we've got jury members, witnesses, examination of the witness, cross examination of the witness, examination in chief of the complainant, cross examination of the complainant closing and opening speeches. So with that there's a workshop beforehand to help the students prepare for their roles. So it's designed that they can do everything during the course.

Similarly, Rick spoke a lot in his interview about how he made extensive use of oral assessment both formatively and summatively in his modules in order to improve students' communication skills and he felt that this was both effective and enjoyable for them, especially when they had a chance to practice beforehand:

I would do a lot of oral assessment and the practice orals always went down well and especially in the context of the students. I would reiterate to the students, you know, to participate in the practice assessments, because if you're going to fall flat on your face, now is the time to do it, not on the day of the assessment and they really appreciated that, I think.

Much of what Rick has said here about oral assessment as a type of authentic assessment accords with the relevant literature. Wallace, for instance, explored what is distinctive about oral assessment and what it can offer as an example of authentic assessment, then went on to consider law students' experiences of this approach, noting that “oral assessment can encourage deep learning and the development of higher cognitive skills” (Wallace, 2010: 369). This is because of the questioning and dialogue that it may include, which both simulates a real world authentic environment in the form of a conversation or presentation and helps identify gaps in students' knowledge. In the empirical element of Wallace's study students were asked for their initial response to oral assessment, their concerns, their experience, their preparation and the effect on their learning. Whilst students indicated

they were generally apprehensive about oral assessment beforehand, in general they also felt that it was a positive experience and were more confident by the end. The focus on presentational skills was what appeared to cause the greatest anxiety for Wallace's students, like Rick's, suggesting that encouraging students towards dialogue and argument needs to be the priority in preparing them for this kind of assessment. What was missing from Wallace's study was the role of the academic, which here has a light cast upon it by Rick's comments in terms of the aims, challenges and achievements of oral assessment from a law teacher's perspective.

4.3.10 Problem-based learning

This code was concerned with evidence from interviewees that PBL was taking place in their sessions. As such, examples are given below of participants talking about how they presented students with real or realistic problems so that they could learn by solving these problems and reflecting on this process. As well as being based usually on an exercise simulating a real life encounter, the other main features of PBL as identified in the literature review included its self-directed and collaborative nature, and in selecting illustrations of this code I specifically looked for instances where participants discussed all of these features rather than just one or two of them in isolation. The sub-codes of Guided PBL, Group work and Reflection that were noted are discussed below.

Guided PBL: Laura, for example, indicated that all of the elements mentioned above were integral to her teaching. When it came to her criminal law module, Laura ensured that the work students did in seminars was realistic:

I think the traditional kind of problem based application work that we do with them is more realistic to the kind of work that if they were to enter law they would end up doing, because you know it's based on framing the questions that you might ask in a police station interview.

Equally important, however, was that the point of these exercises for Laura was to produce "critical and questioning practitioners" and to encourage

“teamwork, particularly in front of an audience of peers”. Although Laura highlighted all of the main features of PBL in her interview as being part of her teaching, she did not refer to PBL expressly as the teaching method. Also, it was notable that in her interview she talked more about the realistic and collaborative elements of PBL and less about its self-directed nature. This may have been because a ‘guided’ rather than ‘open’ variation of PBL was being used, or equally because of the various challenges Laura indicated that she faced in terms of teaching this particular cohort of students, as referred to above, in terms of them being time-poor, having language issues and needing a lot of extra support generally. Either way, this does seem to bear out the main criticism of PBL referred to above by Kirschner, Sweller and Clark, (2006) and others in terms of the limitations of self-directed learning. Academic resistance, in contrast, despite being another challenge of PBL identified in the literature did not seem to be a significant issue for this group of participants, who all seemed keen to engage with this style of teaching.

Group work: Other participants also tended to speak more about using group work and realistic problem-based scenarios in their teaching, and less about the students scaffolding their own learning. In Derek’s interview, for instance, he said that in his workshops “there’s certainly the element of collaboration, which I suppose is mimicking professional practice”, with all the work taking place in groups and the end result being the “development of critical thinking and critical reading skills”. Derek’s approach involved a slight variation on PBL, in the sense that instead of the students doing real-life work in the same way as Laura approached her seminars, as mentioned above, in his workshops students read about real legal cases. Once again, key to the effectiveness of introducing collaboration as an element of PBL seems to be the teacher taking on the important role of facilitator.

Reflection: Tracy’s classes had a lot of the same features as Derek’s but she also emphasised self-reflection as an important element:

They are given a very simple, straightforward scenario, but what they were asked to do is a problem question. But they’re asked to answer it not with respect to them you know having the precise answer, it is how would you go about answering the question.

What Tracy describes here seems to lack the element of collaboration and, in the absence of group work, it can be questioned whether this is in fact an example of PBL in the strictest sense. The reflection aspect of this task alone, however, may be worthy of consideration given its intrinsic importance to PBL. In getting her students to do this task Tracy asked them to reflect on it at various stages – before commencing the task (“we start with a module which has them doing an element of self-reflection about the skills they want”), as part of the task as set out above (students do an “audit trail” for how they go about answering the question) and afterwards (“so they are asked to talk about what skills that they think they've developed”). This highlights one of the valuable aspects of PBL (and authentic assessment) referred to above in relation to the opportunity to get students actively involved in the application of principle to practice and then take that experience and deconstruct it in a reflective process, as illustrated in the work of Schön (1995). In keeping with Schön's work this reflective process, at its most basic level, seems to involve turning experience into learning through the process of students examining and understanding past performance, and using this to modify and change their future actions and attitudes. The ongoing monitoring of learning via reflection can also increase overall understanding and improve performance in educational settings: “monitoring their own learning through self-evaluation can enhance student learning” (Custer *et al.*, 2000: 29). Once learned by students, the benefits of this reflective process also have the potential to be transferred to professional settings.

4.4. Identifying themes

In the next phase of the analysis, I started to look through the data for themes – this is where the interpretative analysis of the data occurred (Boyatzis, 1998). Codes were collated into potential themes, all data relevant to each potential theme was gathered, themes were checked to see if they worked in relation to the coded extracts and the entire data set and, finally, initial codes and/or themes were revised if necessary. I already had some themes in mind when doing the initial coding, again arising from reviewing the literature. Developing the themes out of the data involved organising the

various codes and thinking about how they could be merged to create an overall theme by searching for repetitions, transitions, commonalities, distinctions and so on. After coming up with an embryonic list of themes, these themes needed to be reviewed in order to ensure that data within themes corresponded closely, with clear and identifiable differences between them. Finally, the five themes as shown in table 2 below were defined and named, with examples found from the data to illustrate each theme, considered below under the theme headings of (1) Teacher and Student Adaptation to Changing Environments, (2) Preparing Students for Professional Legal Practice, (3) Building Resilience and Improving Engagement for Widening Participation Students, (4) Integrating Academic and Vocational Skills, and (5) Responding to Challenges of Vocational Pedagogies. For ease of reference the shorthand of Environment, Practice, Resilience, Skills and Pedagogy is used below when referring to the themes.

Table 2 – Themes, Codes and Sub-codes

<u>Themes</u>	<u>Codes</u>	<u>Sub-codes</u>
Teacher and student adaptation to changing environments	<i>Technology</i>	Student technological literacy Staff use of commercial technology
	<i>Pandemic</i>	Rapid change Future predictions
Preparing students for professional legal practice	<i>Employability</i>	Employability agenda Work-readiness
	<i>Professionalism</i>	Professional training Legal language Speaking skills
Building resilience and improving engagement for	<i>Student engagement</i>	Motivation Confidence
	<i>Widening participation</i>	Curriculum design

widening participation students		Emotional support
Integrating academic and vocational skills	<i>Vocational skills</i>	Adapting to change Summative assessment
	<i>Academic Skills</i>	Legal drafting Formative assessment
Responding to challenges of vocational pedagogies	<i>Authentic assessment</i>	Oral assessment Collaboration
	<i>Problem-based learning</i>	Guided PBL Group work Reflection

4.4.1 *Teacher and Student Adaptation to Changing Environments (Environment theme)*

This theme, which is related mainly to external factors that impact on education, emerged from the data and arose in part from the thematic links between the technology and pandemic codes, as noted above, with many of the challenges and opportunities of adapting to new teaching technologies that participants spoke about being prompted by the institutional response to the pandemic (although the pandemic response went beyond simply technological factors). More specifically, this was a theme coming out of the data that helped identify how law teachers responded to challenges presented by external factors that forced them to change or adapt their teaching and it highlighted instances where this was used as an opportunity to introduce or refine authentic learning and assessment. As mentioned above, in the data there was some overlap between participants talking about the impact of technology (particularly remote learning) on legal skills teaching and the effect of the coronavirus pandemic. Justin, for example, talked about how when he first started teaching online as a result of the pandemic, he found it hard to get students to “turn on the camera and there were very big pauses and very big silence.” The use of technology in legal skills teaching, often introduced in response to COVID-19 lockdown restrictions, presented challenges to law

teachers in this study mainly in terms of getting used to new teaching platforms such as Teams. However, these challenges and the response to them inadvertently allowed legal education to in some respects reflect legal practice more closely, in particular through the greater use of technology than might perhaps have otherwise have been the case in the absence of an external driver that was as disruptive as the pandemic, as it involved law teachers adapting in ways that they were not traditionally used to doing, particularly when it came to online learning.

This Environment theme fits into the theoretical framework for this study by highlighting experiential learning as an element of authentic assessment. Drawing upon the ideas of Kolb (1984), in experiential learning learners learn through direct participation, rather than through less active conventional teaching approaches. Kolb's learning cycle, with its focus on students conceptualising abstract principles and active experimentation, has been used to explore the potential of authentic learning activities as tools for experiential learning. Arguably, experiential learning also allows legal curricula to meet the goal of experiencing practice (Turner, Bone and Ashton, 2018) as it can be "a unique and constructive means of uniting the two sides of legal knowledge: formal knowledge and experience of practice" (Higgins, Dewhurst and Watkins, 2012: 166). Studies by Newbery-Jones (2016) and Higgins, Dewhurst and Watkins (2012) used technology - in the form of video game simulations and field trips - to encourage a wider, more contextualised consideration of legal concepts and values. Budgets and time could be potential constraints on utilisation of technology in the classroom, but the benefits, including "contextualising legal theory and focusing students on career options and possibilities" (Higgins, Dewhurst and Watkins, 2012: 178), seem to be worth overcoming these challenges for. The evidence within this theme, drawing in part on the technology and pandemic codes (in particular the sub-codes of rapid change and future predictions identified within this latter code) referred to above, seems to offer the same potential for legal skills teaching to more authentically reflect legal practice through technology in response to external factors, some of which were new and unexpected like the pandemic. To use Justin as an example again, even though he had referred to challenges of teaching online as mentioned above, he also spoke

about how he had overcome these challenges by adapting to this new environment:

I just felt that if I could grab their attention early on in the class, that would help and I think that one of the things that I found quite encouraging was I went round the screen and I literally called out one by one to the students, not really to catch them out, but I basically asked them whether they wanted to be a barrister or solicitor and why, and just by going one by one it actually got them thinking, oh, actually look, I get to say my piece now about where I envisage potentially my beginnings of my career. And actually once I grabbed their attention the first time I found it much easier to kind of get that flow of conversation at different points through the course.

It is notable that Justin felt that engaging the students in the manner described above not only helped the online session flow more smoothly, but also it potentially helped to better prepare them for professional life:

I'm trying to encourage the students to come on the camera if possible. I know it's not always practical, depending on the time of day or where they might be, but I'm trying to encourage them because I'm trying to sort of give them the confidence that actually, if they were hosting client conferences themselves or in work meetings, whether that's within a law firm or you know at a barristers' chambers, I think it's important to recognize and get comfortable with the same skills that you'd be using in that everyday working environment.

The Environment theme thus also highlights a key element of graduate attributes mentioned in section 2.2, which is the need for graduates to demonstrate flexibility and adaptability beyond their discipline-specific knowledge (de la Harpe and David, 2012). In this sense, in terms of implications for improving authentic teaching and assessment practices, this theme seems to suggest the potential value of a principle based around teaching that adapts to the environment, which can be incorporated into a framework for authentic assessment and PBL in legal education. This principle will be explored further in section 5 when it comes to discussion of findings.

4.4.2 Preparing Students for Professional Legal Practice (Practice theme)

This theme, which was primarily related to industry-based factors, particularly in terms of how work-ready students were within the specific sphere of the legal profession, emerged out of the data and partially reflected the thematic link between the employability and professionalism codes referred to above. Thus the concept of work-readiness, in the sense described by Masole and van Dyk (2016) in terms of how ready students are to work in their chosen profession, and which this theme builds upon, was important here. Again, there was some connection in the data between the two codes of employability and professionalism, with the former more generally concerned with the role of legal skills teaching in readying students for employment and the latter focusing more narrowly on preparation for the legal profession. In this study participants seemed to have an awareness of the employability agenda and the policy drivers behind this, but this did not necessarily mean that they agreed with it or even felt that it was convincing. For instance, Laura mentioned that there was a great deal of enthusiasm for the use of mooting or mock trials for student assessment, but expressed scepticism over the usefulness of incorporating such tasks into her sessions given their limited practical application:

...in reality most of our students we can say will not be barristers, they will not be solicitor-advocates. A few will, maybe, but they will be massively in the minority, and so leading them through a course design that supports an amendment sort of scaffolds the skills that they will need in order to be able to successfully participate in an assessed moot, leads them into kind of higher level legal argumentation that they actually are most unlikely to use in practice.

Similarly, as mentioned above, while Tracy realised that in reality universities were judged on criteria such as graduate outcomes, there was for her an element of artificiality in the employment agenda in higher education institutions, given that in her view employers really wanted graduates that they employed to just do their jobs in the specific way employers wanted them done, regardless of whatever skills they were taught at university.

In this study gaps were identified in legal skills teaching when it came to preparing students for professional practice, especially when it came to more nebulous concepts such as commercial awareness and use of language

(both Ray and Nora mentioned this in their interviews, as noted above). The sub-codes of employability agenda, work-readiness, professional training, legal language, and speaking skills that were identified within the codes of employability and professionalism and discussed above helped identify these gaps, which participants focused on in their approach to authentic teaching and assessment. Mention has been made above of the important role of oral assessment and practising public speaking skills in order to “encourage deep learning and the development of higher cognitive skills” (Wallace, 2010: 369). It is also worth highlighting in this context that it was mentioned in the Legal Education and Training Review that opportunities to interview and negotiate can also help to address the “skills gaps in commercial awareness, legal research skills, and communication” (Webb *et al.*, 2013: xiv). Oral assessment, interviewing and negotiation exercises therefore seem to have great potential in relation to preparing students for legal practice. As well as being supported by a wider body of professional opinion, the participants in this study recognised this promise, thus building upon the benefits mentioned in the literature, such as the study by Wallace (2010) referred to above that identified the potential of oral assessment for developing students’ presentational skills.

In light of the discussion of the importance of contextualising legal skills in section 2.2, tailoring assessment to reflect the realities of legal practice may also have a crucial role in contextualising legal skills for law students in their own specific professional context. Thus, despite the reservations and scepticism expressed by Laura as referred to above, she took pains to incorporate oral assessment tasks that mirrored legal practice in her classes, for example when it came to students making oral presentations in front of their peers, although unlike written assessment tasks they tended to be formative rather than summative in nature. As with the Environment theme that has just been discussed, the Practice theme not only captures significant features of the data generated for this study, it also suggests a potential authentic teaching and assessment principle in relation to teaching that prepares students for professional practice that can be investigated in more detail when it comes to discussion of findings and implications for practice.

4.4.3 Building Resilience and Improving Engagement for Widening Participation Students (Resilience theme)

This theme, which focused mainly on the students and the challenges law teachers felt students faced as well as those that they encountered themselves in relation to students, emerged out of the data in part as a result of identifying thematic links between the student engagement and widening participation codes referred to above. Key to this theme was the idea of building resilience for widening participation students through collaboration in particular, as an aspect of authentic assessment discussed in section 2.5.2. Whilst much of the evidence from participants here (e.g. within the sub-codes of motivation and confidence) tended to focus on issues concerning engagement of students – which are reflected in the wider literature such as Travis (2016) among others – there was also a recognition that often the fault lay not with students but with external factors, not the least of which were those connected with widening participation backgrounds. In her interview, for instance, Laura made several references to the particular features and backgrounds of the students whom she taught e.g. they were “time-poor”, language skills were a “massive issue”, they had a wide range of additional needs “that mean quite often they are required to have alternative assessments or special arrangements made” and, especially when it came to legal skills, there was a “lot of front loading of core academic skills that have to be there even before you can begin to springboard into more practice-based work”.

Laura also felt that her students benefited from having assessment tasks tailored to them – some were in her view “more comfortable working in a space where they, you know, have a clear structure and a clear task” while others in her experience “are really uncomfortable in the world of: there is no right answer, come up with your argument and then you know, elaborate and debate”. Indeed, a lot of the data in interviews (e.g. within the sub-codes of emotional support and curriculum design) consisted of participants describing in detail how aware they were of the challenges facing students and the innovative measures they had developed to counter these issues, often making use of examples of authentic teaching and assessment in the

process, such as classroom collaboration. For instance, Nora talked about limited resources as being one of the many challenges of teaching at a widening participation institution in comparison with a university that had students from more traditional backgrounds, and said that one of the ways in which she addressed this was by putting her students in groups to do problem questions, as she felt that “they are much better collaborating together.”

It was stated in section 1 that student engagement is key to any employability-related curriculum reform and that contextualising classroom experiences for students was one way of doing this. In addressing the problem of student disengagement, Claydon noted that “Engagement has clear links with a student’s motivation to learn” (Claydon, 2009: 270) and referred to research showing that emotions and their engagement are an important issue in focusing and retaining attention. In Claydon’s view improving student engagement is a first step in beginning to resolve some fairly crucial student skills shortages, including problem solving, research and confidence. Student engagement has also been identified as intrinsic to authentic assessment (Hart *et al.*, 2011). In this context it is also worth highlighting the CARE framework devised by Tsaoussi (2019) considered further below, which is also based around the same sort of student-centric factors identified within this theme, and relies on student engagement for the implementation of its combination of compassionate, attentive, reason-based and empathetic teaching of legal skills. Much of the focus here is on building resilience within students, particularly those from widening participation backgrounds, in order to encourage engagement, hence the designation chosen for this theme. It was notable that for participants in this study innovation through authentic assessment seemed to be regarded as one of the more effective ways of tackling this issue of student disengagement. This theme therefore suggests a potential principle to add to an authentic assessment framework for legal education in relation to teaching to build resilience and improve engagement. However, Claydon has noted that there may be limited resources to make the required changes to assessment and the work can be “very intensive for the module leader, being extremely hands-on in terms of availability to students” (Claydon, 2009: 282). How this pressure on resources and staff is handled and what could be done to

alleviate it in the future seems worthy of further consideration given the possible benefits to resilience and engagement for widening participation students in terms of working collaboratively inside and outside the classroom, as identified under this theme.

4.4.4 Integrating Academic Skills and Vocational Skills (Skills theme)

This theme focused on the skills, both soft and hard, that law teachers considered students needed to acquire, and more specifically the tension between these soft and hard skills on the one hand and on the other the blurring of the distinction between academic and vocational skills. As such, this theme as it emerged from the data was partly developed out of thematic links between the codes for vocational and academic legal skills. This study's participants seemed to be more comfortable talking about academic rather than vocational legal skills, and more examples of the former than the latter were provided in the interviews, whether it was setting legal referencing tasks for students in Tracy's case or problem scenarios, used by Jack to assess his students' written skills and develop powers of reasoning. When vocational skills were mentioned in the data, such as interpersonal skills, it was usually in terms of a recent change to the way that legal skills teaching was being delivered and it was mostly the participants with a previous background in legal practice that were more keen to talk about how they were adapting their teaching to this change e.g. Ray talking about developing students' commercial awareness by mentioning this aspect specifically in his sessions, Nora getting her students to produce skeleton arguments for mock trials as a form of formative assessment that reflected practice, Rick making his students do oral presentations in class in order to improve their confidence and public speaking skills and so on. Even where vocational skills were discussed, it was often in the context of formative rather than summative assessment. To offset this, whilst participants seemed to find more traditional academic legal skills within their comfort zone, such as legal research or reasoning, even those with no background in legal practice took pains to relate them in some way to what professional lawyers did through authentic teaching and assessment, as discussed under the sub-codes relating to adapting to change, formative

assessment, legal drafting and summative assessment set out above. An example of this was Derek, a career academic with no prior experience of professional practice, running workshops that focused on critical thinking and critical reading of legal texts but getting students to collaborate in so doing, in order to simulate working with colleagues in an office environment.

While there are parallels between this theme and the Practice theme discussed above, the two themes do capture distinct aspects of the data and represent different concepts within it. The Practice theme is concerned specifically with preparing students for professional legal practice and as such relates to data about the challenges of the practice of law as a professional career, while the Skills theme looks more at the tension between academic and vocational skills and how participants have reconciled this tension. To emphasise the blurring of the lines between vocational and academic skills, there was data suggesting that there are law teachers who do not see any distinction between the two. For example both Bob and Laura said that this was a distinction that was either not useful or that they did not recognise in the first place. This ties in with literature referred to in section 2.3 and lends support to the views of Wallace (2010) and others that the so-called liberal/vocational divide in legal education i.e. the balance between the academic and vocational content of the law curriculum, may be overstated.

Laura provided one of the most notable answers to the question of what standard of work students produced in legal skills tasks, as compared with more abstract theoretical tasks like essays, when she stated that she did not recognise any distinction between legal skills assessment tasks and theoretical legal assessment tasks:

I know this is a distinction in the Academy, I'm afraid I don't accept it because I do absolutely think that you need the same sort of higher level skills of, you know, analysis and synthesis and evaluation to successfully work in any practical role that someone might be carrying out. And I think it's, you know, a kind of a poverty of both, if you see legal skills as a sort of solely kind of, I'm not saying you do by the way, as a solely kind of competency based, you know, skills assessment, it becomes lesser somehow and vice versa I don't think essays are theoretical.

Laura felt that this was an important point to make regarding this issue, that there was not an uncontested distinction between legal theory based and legal skills based assessment, especially as making such a distinction in her view appeared to downgrade both types of assessment. Having said this, Laura then went on to say that, while some students did seem to prefer and do better in what might be considered more practice or advice based assessments, this very much depended on the student. Despite the fact that one of the main issues covered in the literature review is the liberal/vocational divide in legal education, from Laura's comments it is apparent that not all law teachers see any such distinction between the academic and vocational content of the law curriculum, and this strengthens the view of Wallace (2010), as referred to above, that this may be a false dichotomy.

In his response to the final interview question as to whether there was anything else to add that had not been covered but which might be relevant, Bob made a point that supported Laura's comments above:

I'm not convinced that stand-alone skills modules are necessarily a good thing. I think an over insistence on stand-alone skills modules can be detrimental to the student experience. Your students can experience them as boring. You know if students don't feel that they're absorbing some new information, some valuable information that's going to, you know, progress their knowledge, they're not always convinced that skills are worthwhile, so I think skills have got to be embedded. I don't think it's a good idea, for example, to call skills module skills modules. But they need to be properly connected to substantive material.

It was notable that Bob felt that making this point was significant enough to merit a separate answer to a free-standing question like this one, given that he had not spoken about this issue prior to this in his interview. Like Laura, however, Bob had also emphasised the importance of teaching legal skills throughout his interview, as well as his personal experience of teaching them during his career as a lecturer. As noted, this also seemed to endorse Laura's view that the concept of a distinction between legal skills and substantive law modules was neither accurate nor helpful. This also links in with a point made in the literature review about how skills cannot easily be taught in isolation from the rest of the programme. Indeed, the comments made by participants

as referred to here raise questions about the extent to which teaching skills in separate modules could be regarded as authentic teaching and assessment unless they are linked to real-life cases, an issue which is explored further under the next theme heading below.

Certainly, in this study there was no evidence of rival camps of academics, divided between those committed to a liberal as opposed to a vocational education. The tension, if it existed at all, was more in terms of law teachers accepting the need to change and adapt to new practices in teaching and assessment in order to best prepare students with the sorts of skills that they would need in their future careers, whether academic or vocational, and trying to work out the best way to do this. What became clear, however, was that whilst the traditional academic legal skills were familiar to participants and appeared well embedded in the legal curriculum, the vocational aspect had not yet been fully introduced and was to some extent still under development. Recent events, such as changes in the profession, discussed more under the Practice theme, and the effect of the pandemic, as discussed within the Environment theme, seemed to have accelerated the shift to a more vocational pedagogy when it came to legal skills, or at least heightened awareness of this aspect. This theme thus not only shows what happened in this study in terms of a particular set of data, it also offers potential to be developed into a principle based around teaching to integrate academic and vocational skills in order to better incorporate authentic assessment and PBL in legal education.

4.4.5 Responding to Challenges of Vocational Pedagogies (Pedagogy theme)

This theme was based around teaching, learning, assessment and feedback and emerged in part out of some of the data relating to the codes for authentic assessment and PBL. The data that particularly gave rise to this theme was that of participants giving examples of how they used the key aspects of authentic assessment and PBL, in terms of self-directed learning, collaboration and real-world relevance, as vocational pedagogies to teach legal skills to law students. There was plenty of evidence in the interviews of participants using authentic assessment and PBL for teaching legal skills in

their modules, even though participants hardly ever used these specific terms to describe what they were doing. As demonstrated within the sub-codes of oral assessment, collaboration, guided PBL, group work and reflection, the examples given in interviews tended to accord quite closely with the requirements of authentic assessment and PBL defined in the literature review.

Good examples of authentic assessment emerging from the data included Andrew's students collaborating in order to interview clients in the real life setting of a law clinic, then reflecting on this experience afterwards in a journal, and Rick's extensive use of both formative and summative oral assessment in his modules. A helpful illustration of the use of PBL in this study was Laura getting her students to do problem based application work, which she said she tried to make as realistic and collaborative as possible. Jack also talked in his interview about utilising problem scenarios that assessed students' written skills and developed their powers of reasoning. Perhaps most notably, as mentioned in the preceding sections and in the examples of Andrew, Rick, Laura and Jack given above, although participants seemed to regard learning experiences that reflected the real world as having the most value, making the experience as close to real life for the students as possible was still considered by law teachers to be effective. This seems to suggest that a realistic as opposed to an actual real life task or assessment may be sufficient for the purposes of achieving at least some of the benefits of authentic assessment, such as encouraging reflection and improving communication in students. Similarly, in the examples given above there were still apparent benefits to be derived from PBL-type activity even where not all of the characteristics of this teaching method were present, such as students learning to work together in groups even if their learning was not always fully self-directed.

There was a departure, however, when it came to the challenges identified by academic opinion in comparison with the views of law teachers in this study. Namely, academic resistance (identified as a significant barrier to the implementation of authentic assessment by Berger and Wild (2017) among others) did not seem to be a particular issue for participants, which was perhaps not a surprise since there was not a complete pedagogic

transformation but only a few examples of authentic assessment and PBL-type activities in some modules. Instead, participants in interviews referred far more to student-centred problems. Above all, getting students to take a more self-directed approach to their own learning and approach to assessment, especially when those students came from widening participation backgrounds, was a challenge identified by several law teachers that was also mentioned above as being highlighted in the relevant literature (Kirschner, Sweller and Clark, 2006). Given that the same participants spoke in very positive terms about the benefits of teaching and assessment approaches that made use of PBL and authentic assessment, recognising and dealing with these challenges appears to be a worthy goal, and one worth prioritising. Taking all of this into account, this theme could ultimately provide a starting point for consideration of a final principle of authentic teaching and assessment practice for law, one that is centred on teaching to overcome the challenges of vocational pedagogies such as authentic assessment and PBL.

4.5. Making comparisons and looking for patterns

The final stage of the thematic analysis process was in some ways both the hardest and the most crucial aspect of the process. This stage involved finding and interpreting patterns and trends, noting the frequency of occurrence of recurrent events, making contrasts and comparisons between different aspects of the data and attempting to make conceptual coherence within the themes developed above. As noted above, one common thread among the participants was that legal skills, and the issue of how to teach and assess them, was increasingly becoming a focus in their teaching. This seems to reinforce the point made in the introduction that skills development and employability are increasingly regarded as a priority by the relevant professional and regulatory bodies for UK legal education. I also found that, whilst background in terms of home teaching institution was not a significant factor when it came to differences between the views participants expressed in their interviews, professional background in the sense of whether participants had spent time in legal practice as opposed to academia alone, did seem to have an impact on their answers. So, while all participants,

whether they were from UEL alone or had spent time partly or wholly in other institutions, tended to agree that the legal skills component of their teaching was increasing, there were key differences between them when it came to how this was happening and how authentic teaching and assessment were used to achieve this. For example Derek, a career academic with no previous background in legal practice, chose to focus on critical thinking in the teaching of legal skills, while Justin, who came from a more practice-oriented background, spoke about legal skills teaching in terms of written and oral advocacy exercises. Further examples of these variations in approach appear in Table 3 below, demonstrating a consistent focus from those with practice experience on more legal work-based tasks like legal drafting and oral assessments in comparison with more abstract tasks (albeit ones that still have real world relevance) like problem questions and critical thinking exercises from those without, regardless of which institution they came from. More generally this reflected the fact that in this study the answers of external participants were broadly consistent with those from UEL when it came to how skills were taught and some of the challenges in doing so.

Table 3 – Examples of authentic assessment in individual modules

Participant	Practice experience	Approach to authentic assessment
<i>Ray</i>	Over 30 years	Drafting submissions, pleadings and instructions for counsel, developing students' commercial awareness
<i>Nora</i>	Over 5 years	Students produce skeleton arguments for mock trials
<i>Rick</i>	Over 5 years	Mock trials, oral assessments, legal drafting tasks
<i>Andrew</i>	None	Application of legal skills in problem questions
<i>Jack</i>	None	Problem scenarios that assess written skills and develop powers of reasoning

<i>Mike</i>	None	Workshop-based discussions of legal topics
<i>Tracy</i>	None	Legal referencing tasks and reading cases and statutes
<i>Derek</i>	None	Workshops that focus on critical thinking and critical reading of legal texts
<i>Justin</i>	Less than 5 years	Written and oral advocacy exercises
<i>Carol</i>	5 years plus	Workshops that simulate a practice environment with a supervisor-trainee relationship
<i>Bob</i>	None	Workshops on reading, researching and writing the law
<i>Laura</i>	None	Evidence-based arguments

In terms of looking for patterns within themes, I noted that some themes were more prevalent and harder to distinguish than others. So, for example, many participants spoke at length about the challenges of the ongoing COVID-19 pandemic and its affect in terms of moving teaching online, which was captured mainly within the Environment theme and the technology and pandemic codes. However, this topic also had clear links with other themes such as Skills, made up of the academic and vocational skills codes, and Pedagogy, made up of the authentic assessment and PBL codes. For instance, Mike stated that the pandemic-initiated move to dual delivery presented technical and communications problems for both students and staff and also impacted on the effectiveness of tasks involving collaboration. Also, Rick said that, before the pandemic hit, there was lots of collaboration and group work in his seminars but since then he had found it difficult to do this in online classes. Other themes were more discrete and crossed over less frequently with the others – most notably that of Practice, which was made up of the employability and professionalism codes – while still being relevant to the overall thrust of this study in terms of identifying the practical challenges

brought about by the introduction of a vocational pedagogy into the academic traditions of university law courses.

A significant trend that emerged from the themes I identified was that, when each participant referred to particular examples of their teaching and assessment practices that they individually felt to be effective, often this crossed a number of themes. For example, Laura talked about how she had done a lot of work with students around essay writing skills and her example provided material for the themes of Resilience, Skills and Pedagogy, as she referred to the challenges experienced by widening participation students and how she addressed these through the use of both formative and summative assessment. Other answers developed the literature in new and unexpected ways, such as Andrew helping to identify collaboration as a key feature of both authentic assessment and PBL, not just in the traditional sense of students working together in groups but also of lecturers teaching together in teams. Again, this contributed to and developed both the themes of Skills and Pedagogy, which were among the most closely linked of the themes identified in this study, while each remaining distinct and clearly defined in their own right as set out above.

Another common issue I identified was that participants made certain key points of relevance to this study that pervaded all the themes without necessarily being features of any of them in particular. Falling within this category was the point made by Mike referred to above that it could be argued that online teaching is every bit as authentic a learning environment as a physical simulation in the classroom, given that businesses in the real world are increasingly adopting online working practices. This potentially highlighted the authenticity of the use of online simulation by legal education providers, given that legal workplaces were similarly adapting to change by moving to online settings. The comments of Tracy, as referred to above, questioning the very drive to teach legal skills and make students employment-ready and the motivations behind this at policy-making level, were similarly pervasive and significant. This also perhaps demonstrates both the benefits and limitations of identifying themes as an analytical tool and emphasizes the importance of not viewing the themes identified in this study in isolation.

4.6 Summary

To summarise, the analytical process described above produced five themes, which cohered meaningfully with the data: Teacher and Student Adaptation to Changing Environments, Building Resilience and Improving Engagement for Widening Participation Students, Preparing Students for Professional Legal Practice, Integrating Academic and Vocational Skills, and Responding to Challenges of Vocational Pedagogies. In the preceding section I have noted a number of interesting patterns to come out of the data: the increasing and common focus on legal skills for law teachers, the effect of participants' professional and teaching background on their perspectives (as interpreted from their interview answers), the pervasive impact of the pandemic, the close link between certain themes such as the Skills and Pedagogy themes, and ultimately the advantages and restrictions of using thematic analysis. I now go on below to discuss the findings of this study, including my process of analysis and data interpretation in order to address the research questions posed in section 2.5, discuss links with previous research, apply theory and ultimately assess how this study contributes to and develops knowledge.

5. Discussion of findings

It was stated above that, in order to investigate the practical challenges brought about by the introduction of a vocational pedagogy into the academic traditions of university law courses, as the basis for making changes to better integrate this into legal curricula and ultimately developing an authentic teaching and assessment framework for legal education, the perspectives of law teachers were crucial but not well known, and that it was therefore important to gain an insight into them. This involved focusing on the three research questions posed in section 2.5, set out below, which I will now attempt to answer. In doing so I will expand on some of the patterns identified above through the thematic analysis process - such as the increasing and common focus on legal skills for law teachers, the effect of participants' professional and teaching background on their perspectives, the pervasive impact of the pandemic, and the close link between the themes of Skills and Pedagogy - in order to highlight the main findings of this study.

5.1. From the perspective of law teachers, how has authentic teaching and assessment been incorporated into the law curriculum (both in discrete legal skills modules and in other modules)?

5.1.1. Links between Skills and Pedagogy themes

As noted above, although the research questions were primarily about authentic teaching and assessment, the interview questions and answers tended to focus on practical legal skills. Despite the fact that the term "authentic assessment" was purposely not used in the interviews, there were examples in their answers of interviewees moving beyond identifying and teaching skills for employability and considering a vocational pedagogy of authentic assessment and elements of PBL. The findings of this study that helped answer this particular research question tended to come under the Skills and Pedagogy themes, which seem to suggest that authentic teaching and assessment has been incorporated into the law curriculum, mainly in legal skills modules. There was plenty of evidence in the interviews of

participants using authentic assessment and PBL for teaching legal skills in their modules, although this tended to take the form of formative assessment for vocational skills while academic skills were assessed summatively and given more weight generally. At its core, as mentioned above, assessment is authentic where it replicates what students will be required to do in the workplace and the key characteristics of authentic learning activities include real world relevance, opportunities for students to collaborate and reflect, and tasks that can be approached from different perspectives and allow a variety of outcomes (Herrington, Reeves and Oliver, 2006). In this study the examples of authentic teaching and assessment took the form of oral assessment, collaboration, group work and reflective tasks that possessed these characteristics e.g. use of oral presentations and legal drafting tasks in Rick's case, students working in teams to produce skeleton arguments for mock trials in Nora's case and use of workshops to simulate practice environments in Carol's case. McNamara (2017)'s questions, as set out above, were also helpful for determining authenticity in relation to specific tasks and activities when it came to asking, for example, whether students were required to mimic professionals in the real world and complete tasks using resources similar to those in the work place under realistic conditions.

Whilst literature such as Herrington, Reeves and Oliver (2006) and McNamara (2017) was useful for identifying authentic characteristics of teaching and assessment, it was equally beneficial for highlighting challenges for implementing authentic assessment that were then brought out in this study. For instance, Hart *et al.* (2011) identified factors intrinsic to authentic teaching and assessment as including student engagement and the role of academic staff. Whilst there indeed were significant student-related factors, examined in more detail below, it was clear from this study that there were also major issues law teachers struggled with when it came to implementing authentic assessment, with varying degrees of success. Often, there was a clear distinction between the intended outcomes of authentic teaching and assessment and the process used for this by participants e.g. Ray mentioned that he mainly taught legal skills by giving lectures and used quizzes as a form of formative assessment, but added:

What you're trying to do obviously all the time is encouraging them to think... so it's not such a big culture shock when they leave university from an academic background into the more practical background...

Ray's example here highlights a potential disconnect between teaching legal skills through, for instance, testing in a quiz and getting students to think like legal practitioners, which would need more authentic classroom experiences. This links back to a point made in section 2.2, which referred to some of the literature that criticises skills teaching that is decontextualized as being too generic to be meaningful to students, with the potential consequence of this being a lack of engagement on their part (Jorre de St Jorre and Oliver, 2018). This demarcation between outcomes and process was also notable from the fact that, whilst the traditional academic legal skills were familiar to participants and appeared well embedded in the legal curriculum, the vocational aspect had not yet been fully introduced and was to some extent still under development. This amply illustrates the point made previously that achieving the goal of providing authentic assessment is neither cheap nor easy – lecturers face significant challenges in terms of having sufficient training, experience and resources to facilitate this teaching and learning strategy properly, as was borne out in the interviews.

To offset this, however, the advantages law teachers spoke about also tied in closely with the literature. As mentioned above, authentic learning activities and assessment tasks have the potential to go beyond simply teaching and testing skills and preparing students for employment, as they can also raise student aspirations and motivation (Berger and Wild, 2017) and help address skills gaps in legal education and training (Webb *et al.*, 2013), such as commercial awareness, use of language and legal research skills. The examples of authentic teaching and assessment that participants spoke about in their interviews included references to these benefits. In the example given by Nora of students producing skeleton arguments for mock trials, she referred to students not only getting valuable feedback to improve their work through this process but also having evidence of advocacy experience as a result, which would be useful for future legal work applications (especially for students who intended to practice as advocates). This could possibly also have the beneficial effect of raising student aspirations and motivations, as

mentioned above. Similarly, in relation to Carol's workshops that simulated practice environments she referred to the benefits as being not only to embed legal skills in everything students did, but also to provide an environment more like a supervisor-trainee relationship rather than the traditional sort of tutor-student one, to engage students and prepare them for employment. In view of these positive elements, striving towards authenticity in teaching and assessment therefore appears to be a worthwhile endeavour in spite of the evident challenges.

5.1.2. Effect of professional and teaching background on perspectives of participants

It is worth pointing out that from this study incorporation of authentic teaching and assessment into the law curriculum seemed to be happening mainly at the level of discrete skills modules rather than as the result of a programme-level approach. This was apparent from the fact that participants tended to discuss only innovations on their modules that they had thought about themselves, rather than in response to any institution-led direction. In one sense this might be viewed as concerning, given the stated necessity, as mentioned above, of maintaining standards across courses and focusing on course-level assessment in order to assess graduate attributes successfully (Hager and Holland, 2006). On the other hand, however, there appear to be benefits to this more individualised, module-level approach, which allows teaching and assessment to be tailored to personal teaching styles and subject-based requirements. Andrew, for example, specifically stated that how he taught and assessed legal skills depended on the module itself, with a practical subject such as clinical legal education being all about the application of legal skills through students taking part in mock trials and writing letters to clients, while for some of the more traditional modules like Equity and Trusts Law it was all about application of skills with regard to problem questions.

It was perhaps as a result of just such a module-level approach that there was a different perspective and divergence in approach in teaching legal skills among staff depending on their professional and teaching background.

Most of the examples given above of authentic teaching and assessment were, notably, from the law teachers who had some experience of professional legal practice (e.g. Rick, Ray, Nora and Carol). It was interesting that, when it came to use of vocational pedagogies for the teaching of legal skills in their modules, staff who were career academics tended to make more use of PBL than authentic assessment. As mentioned previously, in PBL students are presented with real or realistic problems and learn by solving these problems and reflecting on this process (Barrows and Tamblyn, 1980). In this study the tasks and activities identified as possessing these key PBL characteristics of collaborative problem-solving included the application of legal skills in problem questions in Andrew's case, problem scenarios that assess written skills and develop powers of reasoning in Jack's case, workshop-based discussions of legal topics in Mark's case and legal referencing tasks and reading cases and statutes in Tracy's case. Since most of these were examples of what has been described as 'guided' PBL, where tutors are more directive than in 'open' PBL, this at least in part avoided one of the main criticisms of this teaching and learning approach i.e. its self-directed nature, which was not suited to all students. At the same time, however, it has been argued that making students the primary drivers of the learning process is in fact one of the main advantages of PBL (Schmidt, 1993), so 'open' PBL perhaps has unexplored potential in this context.

5.2. What do law teachers describe as the challenges of incorporating and implementing authentic teaching and assessment practices?

5.2.1. Impact of pandemic and other environmental factors

The most relevant findings of this study for the purposes of answering this research question came mainly under the Environment theme, with the addition of relevant points under the Skills and Pedagogy themes when participants discussed challenges they were facing that had perhaps led them to think about how they would enhance the way they taught and assessed legal skills. This uncovered unexpected challenges of incorporating and implementing authentic assessment and PBL in that, rather than these

challenges being based mainly on academic resistance to vocational pedagogies as indicated in the previous literature (Berger and Wild, 2017), these problems tended to focus more on students and their issues with, for example, adapting to more self-directed learning styles. Equally unexpected was the effect of other challenges, such as the move to remote learning as a result of the coronavirus pandemic, as this involved law teachers adapting in ways that they were not traditionally used to doing. The concerns highlighted in the literature about risk-taking and making mistakes while learning to teach online as a result of the pandemic (Cutri, Mena and Whiting, 2020), as referred to in section 1, were thus borne out when participants spoke about their experiences in this study e.g. Rick and Mike talking about struggling with the technological implications of the coronavirus pandemic when it came to using new equipment for teaching; Jack and Ray referring to the challenges of doing group work with students in online seminars; and Tracy mentioning sessions that had to be cancelled due to campus lockdown.

The impact of the pandemic was not entirely detrimental, however, as there were many examples of participants discussing its more beneficial effects and not just the disruption that was caused (this was partly reflected by the division of the Pandemic code into sub-codes relating not just to rapid change but also to future predictions). This also reflected the wider literature referred to in section 1, which mentioned the negative connotations of the coronavirus health crisis as being mitigated by a combination of more positive factors such as humility, empathy, and even optimism among teachers (Cutri, Mena and Whiting, 2020). In this study it was clear that for some law teachers the changes brought about by the pandemic ultimately led to them feeling that their legal skills teaching in fact more authentically reflected legal practice, through the use of technology in response to this external driver. Examples of this perspective were Jack's comments about moving into new territory more quickly and with less resistance in relation to changes to teaching, and Ray's reference to both teaching and professional practice increasingly moving online anyway and only being accelerated by the pandemic. Some participants also mentioned inadvertent benefits for students caused by the COVID-19 shift to online delivery e.g. Nora said that, despite students fearing that they would not get as good an experience, not being on campus and not

being out and about all the time had actually made her students more focused in some ways, in that they were engaging more with formative assessment and sending in more work for feedback purposes.

5.2.2. Challenges of preparing students for employment

It is also significant that the sorts of challenges identified in this study were often related to preparing students for the world of work and legal careers in particular. Although, as mentioned above, the main issues with implementing authentic teaching and assessment identified in the literature tended to relate to challenges that teachers faced, such as academic resistance to this approach, other difficulties relating to students had also been highlighted and these were brought out further in this study. A common criticism of PBL that was referred to previously related to the limitations of self-directed learning i.e. the less guidance there is the less effective the learning is (Kirschner, Sweller and Clark, 2006). It has also been speculated that this criticism might to some extent also apply to authentic teaching and assessment and, indeed, Hart *et al.* (2011) have identified that student engagement is intrinsic to authentic assessment. Ultimately there were indications in this study that participants agreed with these views, enough so that two codes – student engagement and widening participation – relating to this issue of engaging and building resilience for students, particularly those from widening participation backgrounds, were identified and combined to form the theme of Resilience.

This study was particularly useful for uncovering specific issues in relation to students from widening participation backgrounds who were studying legal skills, which did not feature as prominently in the literature. For example, Mike identified the challenge faced by students having to overcome their own anxiety regarding assessments; Laura spoke about the necessity for extensive study support, particularly for students with additional needs who required reasonable adjustments, covering basic skills taught outside the law curriculum e.g. language skills; and Nora spoke about the additional demands this placed on lecturers because it was very labour intensive to introduce skills support in what she felt was the right way, which was within the curriculum

and delivered by law lecturers in timetabled classes. Other difficulties participants faced were conceptual as well as practical e.g. Laura queried whether there was at present the time and space in the curriculum and academic calendar to consider whether the practice of legal skills teaching and assessment matched up to the theory underlying it and therefore queried how authentic in reality current legal educational practices actually were. Solutions to address lack of engagement in university life on the part of widening participation students have been suggested in the literature, such as encouraging disadvantaged students to participate fully in the non-academic aspects of university life (Ferguson, 2017), but it was notable that participants in this study came up with their own innovative solutions, which potentially have wider implications for professional practice. For example, one method of tackling student dis-engagement that was considered to be effective by both Mike and Carol was constantly reinforcing to students the practical relevance of the legal skills they were teaching to them, while Laura adjusted her teaching and assessment to take account of individual students' strengths and areas for improvement, and Tracy tried to provide more emotional support to her students. Although this arguably does not go far enough, as it is not the same as embedding skills in an authentic assessment, it may at least be a useful starting point.

5.3. How have or might law teachers overcome any challenges in adapting their modules to incorporate authentic teaching and assessment and in preparing students for employment?

5.3.1. The increasing focus on teaching legal skills

The answer to this question takes the form of the PREPS framework, considered below, but in developing this framework it is worth mentioning that it was the data linked to the Practice and Resilience themes that contributed the most useful material for how law teachers addressed challenges in adapting their modules to incorporate authentic assessment and PBL in order to prepare students for employment. In this study participants discussed interventions that they had utilised in the past and also included suggestions

for the approach to take in future. In many ways this research question was at the heart of this study, as the relevant data concerned issues pertinent to employability-related curriculum reform and, perhaps even more importantly, would help to develop a set of pedagogical principles that are applicable to authentic assessment and PBL in law schools (see next section). So, for example, where Tracy recommended a more holistic approach to the teaching of legal skills, by embedding them in substantive law modules, this suggested that it was better not to teach vocational legal skills in isolation but rather combined with academic skills like legal reasoning. Bob also talked about the need for more integration of legal skills into core law modules in his interview. As mentioned in the literature review, authentic assessment potentially provides a means of doing this by relating the tasks that students do in the classroom to what legal professionals do in the world of practice (Herrington, Reeves and Oliver, 2006). It is possible to take this benefit even further as, from the perspective of the participants in this study at least, it seems to be the case that the more authentic law teachers can make tasks and assessments in terms of their resemblance to real world legal cases, the more valuable they feel these experiences potentially are for developing legal skills in law students. This is illustrated by the fact that in their interviews the enhancement to teaching and assessment that law teachers in this study talked about most consistently was making classroom exercises and assessment tasks resemble as closely as possible practical real life scenarios, whether in terms of exposing them to reading actual law reports, appearing in a working courtroom setting or coming into contact with practising legal professionals.

But the advantages of authentic assessment and PBL are not only limited to preparing students for employment and can also extend to contextualising the law and legal theory. Bob considered that this was very much the case in his collaborative legal skills workshops, for example, which focused not only on students reading, researching and writing international law together but also on them reflecting upon and locating different sources of international law and thinking about possible topics for their final projects in groups. In his interview Derek also talked about how he was thinking of introducing more formative oral assessment into the module not only to give

students practice at public speaking but also to help them learn how to summarise cases, and to encourage them to collaborate in completing these tasks. This sort of synthesis of vocational and academic legal skills bears out some of the possibilities of authentic teaching and assessment discussed in the literature review as not only being restricted to enhancing employability, but also for increasing students' awareness of substantive legal doctrine and of law in its wider operational setting (Hart *et al.*, 2011). Again, this is a benefit that can be taken further in that it could even be argued that, when integrating the teaching of legal skills into the law curriculum, some sort of synthesis with more traditional academic legal pedagogies actually seems to be key to the success of any vocational pedagogy. This was shown time and time again in this study by the fact that tasks that seemed more focused on vocational skills development, such as oral assessment or collaborative problem-solving, in fact had an invaluable role, in possessing elements of authentic assessment and PBL, in developing exactly the kind of academic legal skills that most law teachers would perhaps argue is an intrinsic benefit of the degree level study of law at university (quite apart from their direct relevance to professional legal practice) whether in terms of critical thinking, legal reasoning, reflection, self-assessment, organisation, professionalism or judgment.

5.3.2. Authentic assessment and PBL for legal education (the PREPS framework)

Ultimately, the themes identified through this research not only provided a means of analysing and interpreting the data generated for this study, they also provided the basis of a framework for incorporating authentic assessment and PBL into the law curriculum in order to prepare students for employment. Thus, while the themes discussed above show what actually happened in this study and represent something of importance or some level of meaning within the data, in this section what will be discussed are principles developed out of these themes, which contain proposals for future authentic teaching and assessment practices. The guiding principles developed in this study as set out below bear some resemblance to the CARE framework of Tsaoussi (2019) referred to below, but have the advantage of

being based on an empirical study designed for this purpose rather than being purely theoretical, and expands and modifies some of the concepts identified in this earlier framework, to apply in a legal education context and taking account of recent developments such as the introduction of the SQE. Tsaoussi's CARE framework is a useful starting point, however, as it is perhaps the only attempt to develop a specific legal pedagogy for teaching (mainly soft) skills in law schools to prepare students for legal practice.

Tsaoussi (2019: 1) developed a set of pedagogical principles based around "compassionate, attentive, reason-based and empathetic teaching" (the CARE framework) to help law teachers to enhance their legal skills teaching. Each of the CARE components represents both cognitive and emotional elements. Compassionate teaching prepares students for effective dispute resolution by minimising conflict in the classroom e.g. through use of the 'Socratic method' i.e. the stimulation of critical thinking by argumentative dialogue. Attentive teaching involves teachers mastering the art of listening to their students, for instance through feedback and encouraging classroom participation. Reason-based teaching aims to introduce legal reasoning to students, for example by considering legal case studies in groups. Empathetic teaching is about non-verbal communication between teachers and their students and can take the form of collaborative work, mentoring or student law clinics. Tsaoussi herself recognised that there were shortcomings to the CARE framework, such as the heavy load it placed on teachers and the difficulty of maintaining student motivation. However, she notes that the best way for law teachers to test the CARE principles in practice is to use them when teaching soft skills modules (and more widely, throughout the legal curriculum) and that the actual implementation of the principles will depend on a number of factors such as the level of student engagement and participation of teaching staff. The CARE framework can thus potentially be used as a starting point for guiding principles that are applicable to PBL and authentic assessment in law schools, as it is one of the only attempts to develop pedagogical principles specific to law for teaching legal skills to law students to prepare them for legal practice. Adapting Tsaoussi's principles to take account of PBL and authentic assessment might thus help overcome some of the challenges of implementing these teaching methods, as identified above.

Further gaps in and links with Tsaoussi's framework are highlighted below in arriving at my own set of principles for authentic assessment and PBL in legal education, as well as their relationship with the Statement of Solicitor Competence and graduate attributes, which cover both academic and vocational skills, as discussed previously. In terms of contribution to professional practice, the main interventions in teaching and assessment proposed by the framework are summarised in Table 4. For ease of reference these principles will be referred to as the PREPS framework, based as they are on the principles of Teaching for professional practice, Teaching for resilience and engagement, Teaching that adapts to the environment, Teaching to respond to challenges of vocational pedagogies and Teaching to integrate academic and vocational skills (referred to by the shorthand of the Practice, Resilience, Environment, Pedagogy and Skills principles below).

Table 4 – Summary of PREPS framework.

PREPS	Primary interventions in professional practice
Practice principle	Collaboration between staff who have experience of legal practice and those without.
Resilience principle	Adapting assessment and feedback and providing support to students outside the classroom.
Environment principle	Greater training in and use of virtual learning environments, including online simulations.
Pedagogy principle	Enhancement of formative assessment practices through use of authentic assessment and PBL.
Skills principle	Students taking on roles as professional lawyers in simulations of realistic workplace environments.

5.3.2.1 Teaching for Professional Practice (Practice principle)

The principle of Teaching for Professional Practice was developed out of the theme of Preparing Students for Professional Legal Practice and the separate individual codes on Employability and Professionalism. The

Preparing Students for Professional Legal Practice theme helped identify gaps in legal skills teaching when it came to preparing students for professional practice, especially in relation to concepts such as commercial awareness and use of language, and also identified the potential role of assessment tailored to reflect the realities of legal practice in contextualising legal skills for law students. The Employability and Professionalism codes were divided into further sub-codes on professional training, legal language and speaking skills, thereby highlighting the important role of oral assessment, interviewing and negotiation exercises in preparing students for legal practice, which participants focused on in their approach to authentic learning and assessment. The aspect of the CARE framework that accords most closely with the Teaching for Professional Practice principle is Compassionate teaching, with its emphasis on argumentative dialogue between teachers and students, but this lacks an explicit link with preparing students for practice.

Central to this principle is the idea of law teachers creating a supportive environment for students to develop their legal skills, both in terms of students building a rapport with their teachers and forming closer interpersonal relationships with their peers in order to increase their sense of belonging. There is therefore a link between this principle and the Resilience Principle, considered below, where the importance of law teachers being both caring and attentive in building students' resilience, or ability to cope, without damaging their confidence is emphasised. In this study this aspect was brought out, for example, by Laura's comments about the learning process sometimes being painful and students therefore needing time and space to practice (and be allowed to fail) at formative assessment before attempting any summative assessment. The importance of relationships, communities and opportunities for failure in relation to developing resilience was recognised by Bleasdale and Humphreys (2018). Their large-scale study, which involved interviewing 80 students and staff from law and other disciplines to measure resilience, concluded with some key recommendations for universities that are also relevant to this principle, particularly in relation to personal tutoring in terms of giving careful consideration to how personal tutors are selected and trained and also adopting a personal tutoring model

that incorporates additional meetings. Bleasdale and Humphreys also make a compelling case for resilience as a characteristic that is dependent not only on individual students, but also upon their surrounding circumstances, which emphasises the potential for teachers to influence the resilience of their students by helping them to manage the challenges they face during their time at university

The Practice principle also comes out of the wider literature on authentic assessment, which it develops. Several authors have written that authentic assessment should require students to carry out activities that reflect actual professional practices: “For performance-based assessment tasks, students are required to produce or demonstrate knowledge and skills in activities close to the profession” (Ajjawi *et al.*, 2020: 306). The Teaching for Professional Practice principle therefore has significant implications for assessment design, as it suggests that despite the difficulties of implementing assessments based around oral presentations, interviewing and negotiation (notably training staff and ensuring that they are adequately resourced) time and space need to be made for such assessments, and this includes formative assessment to prepare students during teaching. Whilst the emphasis from participants in this study has been primarily on oral tasks, written assessment also has a role to play in this context and it has been suggested in the literature that appropriate forms of written authentic assessment could include case analysis, problem-solving and essay questions (Villarroel *et al.*, 2018). Given the relevance of this theme to professional practice, it also appears important to ensure that assessments that prepare students for practice are as closely related to the actual practices of the legal profession as possible. One practical suggestion for doing this, and also getting around the problem of staff not having the benefit of a professional background to help them design relevant assessments, is for them to collaborate with staff that do have such experience. This is supported in the literature, as the importance of law teachers who had significant experience and exposure to the various topic areas which they taught is regarded as critical by Grealy (2018), which may be challenging where a law school lacks this sort of expertise in, for example, interviewing or other skills that might be central to a professional skills teaching module.

The PREPS framework can be linked back to the discussion of the SQE and graduate attributes in section 2.2, although each theme covers a number of different elements rather than mapping exactly onto just one requirement of The Statement of Solicitor Competence ('The Statement'). The Practice principle, with its connections to Employability and Professionalism, most explicitly aligns with the technical legal practice requirement of The Statement by emphasising practice-related skills like spoken and written advocacy and negotiating solutions to clients' issues. However, the professionalism and judgment requirement of The Statement mentions: "Applying legal principles to factual issues, so as to produce a solution which best addresses a client's needs" (SRA, 2020) and the requirement of working with others refers to the need for candidates to demonstrate that they can communicate clearly and effectively both orally and in writing. These requirements both also link in with the Practice principle of the PREPS framework. When it comes to incorporating this theme into the curriculum, what appears important is for law teachers to create a comfortable and vibrant environment for students to develop their professional identities by practising their legal skills, exchanging ideas, resolving disputes and thereby preparing themselves for future roles as effective and eloquent conflict managers, with law teachers facilitating this development. This is unlikely to be an easy process for either law teachers or students, especially given comments by participants in this study like Rick, who spoke about how nervous his students were about oral presentations in particular. However, the Teaching for Professional Practice principle illustrates the potential, through authentic teaching and assessment, to develop essential graduate attributes by instilling in students skills that are universal and transferable, having relevance well beyond the discipline of law.

5.3.2.2 Teaching for Resilience and Engagement (Resilience principle)

The Teaching for Resilience and Engagement principle developed out of the theme of Building Resilience and Improving Engagement for Widening Participation Students and the codes on Student Engagement and Widening Participation. The Resilience principle focused on the idea of building

resilience for widening participation students through aspects of authentic assessment, such as collaboration in particular, in order to address issues of student engagement. In relation to the Widening Participation code, the importance both of appropriate curriculum design and of emotional support for students was accentuated by the division of this code into named sub-codes based on these two issues. Attentive teaching is the aspect of the CARE framework that aligns most closely with the Resilience principle, based as it is upon encouraging student participation. However, the Teaching for Resilience and Engagement principle goes further than Attentive teaching by placing an emphasis on students from widening participation backgrounds (unsurprisingly, given the context for this study) and applying relevant facets of academic opinion on authentic assessment. It has been suggested by Ashford-Rowe, Herrington and Brown (2014), for instance, that authentic assessment should stimulate students to engage in solving problems, applying their knowledge and making decisions. This has benefits beyond just improving student participation and building their resilience, however, as this sort of engagement is also potentially conducive to the development of their cognitive and thinking skills (Villarroel *et al.*, 2018). In discussing resilience it must be recognised that there is no universally agreed definition of the term. I would, however, agree with the view of Bleasdale and Humphreys (2018), as mentioned above, that resilience is a complex characteristic, related to aspects of not only the individual but also to the environment they are in, and that an individual's resilience, or ability to cope, may vary in different settings.

This principle also suggests practical solutions, particularly in terms of classroom collaboration, to address the challenges of engaging students that are supported in the literature. For example, although as stated previously this view can be contested, Schmidt, Rotgans and Yew (2011) have suggested that small-group work can be used to protect against dropout and encourage student engagement. An equally important factor arising out of this study, however, was that the Resilience principle also seemed to encourage the use of interventions outside the classroom in order to address issues relating to engagement and participation. There were several aspects to this raised by participants: adapting assessments more to students (this includes in relation to teaching, through use of formative assessment that was more tailored to

summative assessment), getting students to engage more with reading core legal texts (by demonstrating to them their usefulness both to developing legal skills and to legal practice), and providing additional feedback and support for students outside the classroom (including how to deal with distress, anxiety and depression).

Like the Teaching for Professional Practice principle discussed above, this principle potentially covers more than one element of The Statement. Most directly, the Resilience principle exemplifies the requirement for SQE candidates to learn to manage themselves and their own work by demonstrating how to initiate, plan, prioritise and manage work activities efficiently, punctually and to an appropriate standard, which includes dealing effectively with unforeseen circumstances. But the Teaching for Resilience and Engagement principle also typifies The Statement's requirement for working with other people in several respects, including where it refers to: "Responding to and addressing individual characteristics effectively and sensitively", "Treating others with courtesy and respect" and "Being supportive of colleagues" (SRA, 2020). As mentioned above, Hyams (2008) also refers to working in an autonomous way as one of the requirements for a legal practitioner to be considered professionally responsible. Whilst key to the Resilience principle is law teachers listening to, supporting and generally 'being there' for their students, it is perhaps equally crucial in relation to this aspect of the PREPS framework for them to instil these qualities in their students, so that the students can learn how to work both autonomously and with others in an efficient and effective manner. This will only be possible through the incorporation of explicit module learning objectives in relation to engagement, participation and collaboration into the law curriculum.

5.3.2.3 Teaching that adapts to the Environment (Environment principle)

Arising from the Adaptation to Changing Environments theme, the principle of Teaching that adapts to the Environment fits into the framework for authentic assessment in legal education developed for this study by highlighting experiential learning as a key element of authentic assessment, drawing on data relating to the codes based on Technology and Pandemic, to

offer the potential for legal skills teaching to more authentically reflect legal practice through technology in response to external factors. This principle represents a new element that is not part of the CARE framework at all, since it is based very much on the context in which this study was carried out i.e. a global pandemic that necessitated a shift to online teaching across the entire higher education sector. The direct effects of the pandemic in particular were captured by data linked to the sub-codes relating to rapid change, which concerned the disruptive impact of the health crisis, and future predictions, which is perhaps of more direct relevance here when it comes to potential interventions that can form part of the PREPS framework for authentic teaching and assessment in a legal context.

Key to the Teaching that adapts to the Environment principle is the effect of forcing both law teachers and students to engage with rapid change (in this case at societal level as a result of the pandemic) by getting to grips with new platforms for learning and practice (i.e. online learning environments that simulate the real world of legal practice). Far from being a negative aspect, this can therefore be presented as a positive development, since it encourages a wider, more contextualised consideration of legal concepts and values for law students in a way that both directly reflects developments in the profession and benefits their future readiness for work. As stated in section 1, the pandemic has resulted in increased expectations of graduate employability skills among employers, such as law firms, and this includes in respect of information and communication technology skills (Cantatore *et al.*, 2020). The link with experiential learning mentioned above also directly ties this theme into the literature on authentic assessment. As mentioned above, experiential learning is anchored in real life experiences (Keeton and Tate, 1978) and indeed experiential learning has been described as a form of both authentic assessment and PBL, because of this potential to integrate students' experiences into the curriculum (Newbery-Jones, 2016) and allow them to view problems from a variety of different perspectives (Grimes, 2016). Budgets and time have often been cited as restrictions on the use of experiential learning (Higgins, Dewhurst and Watkins, 2012) but it may be that utilization of online learning environments offers a way of getting around this expense. The level of investment in online teaching can vary and, based on

the experience of participants in this study, solutions can range from doing fairly basic online research tasks, to getting students to talk to each other more in online groups, or at the highest level using advanced software such as 'Practical Law' to create complex online simulations.

Like Resilience, the Environment principle crosses over the requirements under The Statement for SQE candidates to learn to manage themselves and their own work and to work with other people. Under these requirements The Statement refers to aspects of the Teaching that adapts to the Environment principle and data within the Technology and Pandemic codes, especially under the latter's sub-codes of rapid change and future predictions. This includes elements that come within the communication heading that cover "Using the most appropriate method and style of communication for the situation and the recipient" (SRA, 2020), which could include use of online communications where appropriate and necessary; and also, under the management heading, this would cover dealing with unforeseen circumstances and managing available resources efficiently, which would seem to include meeting external challenges such as the pandemic. A key element of graduate attributes mentioned previously is the need for graduates to demonstrate flexibility and adaptability beyond their discipline-specific knowledge, and this is highlighted by the Environment principle. This also reflects another requirement of The Statement in relation to professionalism and judgment, where adapting legal practice to address developments is mentioned specifically as a desirable ability for candidates to demonstrate.

5.3.2.4 Teaching to overcome challenges of vocational pedagogies (Pedagogy principle)

Developed out of the Responding to Challenges of Vocational Pedagogies theme, the principle of Teaching to Overcome Challenges of Vocational Pedagogies tackles the challenges for law teachers in adapting their modules to incorporate authentic learning and assessment in preparing students for employment, with a particular focus on problems affecting students, such as directing their own learning. This principle has most in

common with the Reason-based teaching element of the CARE framework, which discussed introducing legal reasoning to students. The Pedagogy principle is however much wider in scope, as it is based around teaching, learning, assessment and feedback and was formed out of codes for authentic assessment and PBL through examples identified in the study of oral exercises, collaborative tasks, guided PBL, group work and reflection. However, enhancement of students' legal reasoning, thinking and judgment is still very much at the heart of this theme, especially as this is a key element of authentic assessment that has been emphasised in the literature. It has been suggested that authentic assessment should encourage students to engage with assessment criteria, judge their own performance and thereby regulate their learning (Villarroel *et al.*, 2018). Evaluative judgment is particularly important for student learning because it promotes students' ability to judge the quality of their work and helps them "to identify areas that need improvement, track their progress over time, and develop insights into acceptable standards of quality performance in their future profession" (Ajjawi *et al.*, 2020: 307).

In terms of practical solutions and teaching interventions put forward through consideration of the perspectives of participants in this study, the focus within this principle is mainly on enhancement of formative assessment practices to take account of challenges faced by and from students, particularly getting them to engage with authentic assessment and PBL in order to improve their evaluative judgment capabilities. Some of the techniques used to tackle these student-centred issues by participants included Laura ensuring that the problem-based work that she did with her students in seminars was as realistic as possible, Derek getting his students to read real legal cases together in his workshops, Andrew making his students collaborate in mock interviews with each other and Nora's students performing an advocacy exercise in an actual courtroom. This diverse range of formative assessment practices seems to reflect the recommended approach in the literature i.e. that "Students need to be exposed to a variety of tasks and requirements and have plenty of opportunities to seek and engage in feedback about their workplace performance" (Ajjawi *et al.*, 2020: 307). Arguably there is also a link here to supporting student resilience through self-

regulated learning, as it has been suggested that effective feedback should enable learners to work towards self-regulated learning “so that they can plan and manage the improvement of their own learning in the future” (Boud and Molloy, 2013: 2). This concept of self-regulated learning refers to “the degree to which students can regulate aspects of their thinking, motivation and behaviour during learning” (Nicol and Macfarlane-Dick, 2006: 200) e.g. by setting learning goals and strategies for achieving them. This therefore has a great deal in common with the approach to formative authentic assessment discussed above, as Beaumont, O’Doherty and Shannon (2011) and others have similarly suggested that courses should use structured and varied feedback practices in order to develop self-regulated learning.

Teaching to overcome challenges of vocational pedagogies is an extensive principle that covers several of the requirements for SQE candidates under The Statement. Legal reasoning and evaluative judgment are specifically recognised under the professionalism and judgment requirement, which refers to recognising and identifying ethical issues, relevant legal principles, and rules of professional conduct and exercising judgment in following them. The technical legal practice requirement also recognises the importance of evaluative judgment in undertaking legal research, and this is even highlighted under the requirement of working with others when it comes to “Understanding and responding effectively to clients’ particular needs, objectives, priorities and constraints” (SRA, 2020). As an element that supplements development of critical thinking and legal reasoning abilities in students it is notable that The Statement also highlights reflection in terms of the need for students to reflect on and learn from practice as well as from others. Enhancing students’ problem-solving capabilities was also mentioned as a key component of the law curriculum in the discussion of employability, work-readiness and professional skills in section 2.1, and illustrates a clear role for PBL in particular. This principle thus underscores the significance of legal reasoning, which it would therefore seem sensible to incorporate throughout the law degree, introducing students to problems that require reasoning skills for their solution at the earliest stage possible and then building on this with more advanced exercises that utilise realistic

components such as interviews and advocacy as students progress through their studies.

5.3.2.5 Teaching to integrate academic and vocational skills (Skills principle)

The principle of Teaching to Integrate Academic and Vocational skills, which came out of the Integrating Academic and Vocational Skills theme and also brought together the separate codes on academic and vocational legal skills, emphasised the importance of law teachers relating their legal skills teaching to the behaviour of professional lawyers through authentic teaching and assessment. In relation to the CARE framework, this principle aligns most closely with Empathetic teaching, which is about teachers communicating non-verbally with their students, although this goes beyond the examples of collaborative work, mentoring and student law clinics mentioned by Tsaoussi (2019) to also embrace what may be regarded as more traditional academic legal skills, such as legal research and reasoning. In this study, as stated previously, whilst participants seemed to find these traditional academic legal skills within their comfort zone, even those with no background in legal practice took pains to relate what they were doing in the classroom in some way to what professional lawyers did in practice through authentic teaching and assessment, as demonstrated through the sub-codes relating to adapting to change, formative assessment, legal drafting and summative assessment. This principle also builds on the relevant literature, which indicates that authentic assessment tasks should provide students with opportunities to take on roles as legal professionals and reflect upon this, thus straddling the roles of student and future practitioner in order develop their understanding of what it means to fit in with workplace practices and thereby take the first steps to achieving success in their chosen profession (Ajjawi *et al.*, 2020).

Empathetic teaching is also connected with emotion management and, indeed, Tsaoussi's CARE framework generally is focused on bringing an understanding of the affective domain into legal education. The affective domain involves the study of how emotions are expressed, learned, arise, experienced, influenced by and influence behaviour (Maharg and Maughan, 2011). Maughan (2011) has argued that taking emotion into account is critical

for the teaching process but the affective domain has been largely ignored in legal education, especially at the curriculum design level. The significance of this is that unless law teachers engage with the motivations and emotional experiences of their students, they will not care about what they are learning and its consequences. Engaging well with affect in legal education can therefore have a positive impact on students' behaviour and performance, while ignoring the affective domain risks students losing both confidence and interest in their studies. There is a case for rethinking curriculum design in light of this and there are a number of ways of embedding affect in the curriculum. For example, Tsaoussi refers to good classroom management to create a safe and supportive environment for students, particularly when it comes to negotiation, and this is borne out to some extent by Tracy's comments in this study that it was crucial for her students to learn that the point of negotiation was not simply to batter each other down into submission but to encourage the more positive elements that they enjoyed, like teamwork. More generally, therefore, affect may be embedded in the curriculum by creating more space for student dialogue and creativity.

The data within the Skills theme also highlighted, however, that whilst more traditional academic legal skills were familiar to participants and appeared well embedded in the legal curriculum, the vocational aspect had not yet been fully introduced and was to some extent still under development. As mentioned above, when vocational skills, such as interpersonal skills, were discussed it was usually in terms of a recent change to the way that legal skills teaching was being delivered and it was often in the context of formative rather than summative assessment. Nevertheless, there was a universal acceptance among participants of the need to change and adapt to new practices in teaching and assessment in order to better prepare students with the sorts of skills that they would need in their future careers. Examples in this study of participants working out the best way to accomplish this goal provide useful suggestions to incorporate into teaching and assessment practices more generally. Andrew, for instance, indicated that in his module the development of vocational skills in law students was directly linked to preparation for summative assessment. In this way, simulations of trials, meetings with clients, and the writing of client letters, all of which were

formative, were in fact part of a continual learning process, as they were all then used by students to include as part of the reflective portfolio that was the summative assessment in Andrew's module. Such authentic assessment tasks thus have potential to demonstrate to students that legal skills are essentially what they are developing to see how they apply in practice what they learn at law school. There is still however some way to go in this area, as it was clear from this study that, whilst the more traditional academic legal skills were familiar to participants and appeared well embedded in the legal curriculum, the vocational aspect was to an extent still a work in progress. This is clearly therefore an endeavour that is not without its challenges, particularly for those who may not have had previous experience of professional practice, thus reinforcing the need for adequate support and training for law teachers.

Whilst the Skills principle recognises the importance of enhancing students' personal attributes and interpersonal factors, as mentioned in section 2.1, it also returns the focus to enhancement of field-specific knowledge and skills, as well as more generic skills. With its emphasis on integrating vocational and academic skills, this principle maps closely onto The Statement requirements of professionalism and judgment and technical legal practice for SQE candidates. Under both requirements, while traditional academic skills like undertaking legal research, applying legal principles to factual issues, and using clear and accurate language are mentioned, equal significance is attached to more vocationally relevant aspects such as "Disclosing when work is beyond their personal capability", "Knowing when to seek expert advice", and "Identifying all parties' interests, objectives and limits" (SRA, 2020). Clearly, incorporation of the latter elements into law modules will only be possible through simulation of realistic work-based classroom tasks and assessments. While many aspects of teaching law are best demonstrated by example, whether in the form of model answers or guides to best practice, when it comes to vocational elements this need to illustrate to students the standard to which they should be aiming is only amplified. In a professional workplace setting it is often only through experience and the example provided by more experienced colleagues that knowing when to seek expert advice, for instance, will be learned – similar

room needs to be found in the law curriculum for these sorts of lessons to be imparted to students.

6. Conclusions, Limitations and Implications

6.1. Conclusions of study

In order to investigate the practical challenges brought about by the introduction of a vocational pedagogy into the academic traditions of university law courses, this study focused on the three research questions set out in section 2.5 in order to determine how far reaching the implementation of practical legal skills teaching in legal curricula has been, the extent to which the most important stakeholders such as law teachers agree and ultimately what approach this curriculum development has taken. Based upon the preceding discussion, tentative conclusions can begin to be drawn. Ultimately, the three key research questions for this study – how has authentic teaching and assessment been incorporated into the law curriculum, what are the challenges of implementing authentic teaching and assessment practices, and how have these challenges been overcome in adapting modules and preparing students for employment – are best addressed by reference to the themes discussed in section 4. The themes identified in this study – Teacher and Student Adaptation to Changing Environments, Preparing Students for Professional Legal Practice, Building Resilience and Improving Engagement for Widening Participation Students, Integrating Academic and Vocational Skills, and Responding to Challenges of Vocational Pedagogies – were then developed as guiding principles that are applicable to authentic assessment and PBL in law schools and gaining a better understanding of how law teachers should teach professional legal skills. In particular this study seems to suggest that in fact, although there may be some value in activities that only have certain elements of authentic assessment and PBL, the more authentic the task – in terms of its resemblance to a real life practical legal scenario – the more valuable it potentially is for developing legal skills in law students, at least from the perspective of law teachers. An important qualification here is the term ‘potential’, since it also seems clear from this study that student engagement and facilitating self-directed learning are crucial to the incorporation of authentic assessment and PBL, and the

absence of either these elements will have a major impact on the success of these approaches.

At this stage it may be helpful to summarise other unique findings of this study that help enrich existing literature. Reflecting the increasing importance placed upon skills development and employability by the relevant professional and regulatory bodies for UK legal education, for participants in this study legal skills and the issue of how to teach and assess them has increasingly becoming a focus in their teaching. This study has also shown that the law teachers interviewed are mostly committed to using vocational pedagogies for teaching legal skills in their disciplinary context rather than decontextualised skills development, and many are working towards overcoming the challenges of implementing these pedagogies. Furthermore, I found that professional background in the sense of whether participants had spent time in legal practice as opposed to academia alone had an impact on their perspectives, in that there were key differences between them when it came to how this was happening and how authentic teaching and assessment were used to achieve this, as illustrated in Table 3. This highlights the benefit of this study for the purposes of exploring the perspectives of law teachers towards teaching professional legal skills, which as identified in section 1 are crucial given law teachers' roles and responsibility for affecting change, but previously were not well known or examined sufficiently. Another key message seems to be that authentic teaching and assessment can integrate academic and vocational skills in the curriculum and for this reason should be more widely used. In particular, when it came to investigating the implementation of legal skills teaching, it was clear from this study that a lot of consideration and action was already taking place in this regard on the part of participants. This was the case even in light of the extremely challenging context of a global pandemic, which in fact accelerated the process of change in some beneficial ways, particularly in relation to use of technology. When it comes to better integrating the vocational pedagogies of authentic assessment and PBL into legal curricula, which will be considered in more detail in section 6.3 below, relevant innovations can therefore take the form of harnessing and building upon what may well already be taking place in law schools rather than making major disruptive changes and interventions.

Before this, however, the strengths and weaknesses of this study will be considered in the next section.

6.2. Quality and limitations of research

In light of the limitations of this study, the conclusions drawn above are tentative. This was a relatively small scale qualitative study set largely in the context of UEL and its peer institutions (in the sense of them occupying a comparable position in most league tables, having a similar body of widening participation students, and also being former polytechnics and primarily teaching-focused universities). There was also the potential for subconscious bias in the interpretation of the data on my part, as a researcher investigating how authentic teaching and assessment have been incorporated into the law curriculum in order to prepare students for employment. A larger sample might also have been helpful to provide a greater range of data on authentic assessment and PBL. Section 4.5 mentioned some of the limitations of using thematic analysis as an analytical tool and emphasized the importance of not viewing the themes identified in this study in isolation but looking instead at the links between them. However, despite these limitations, to the extent that the findings of this study represent a plausible interpretation of genuine views and behaviour, they allowed useful conclusions to be drawn above about how authentic teaching and assessment can be used to approach legal skills teaching. Indeed, it is argued that these perceived limitations were in fact key to the design, analysis and findings of this study. Although I have not based my analysis on data derived from a sample that is representative of a wider population, and I am therefore not attempting to make empirical generalisations, nevertheless there is no reason to assume that the sample and therefore the analysis are atypical. The sampling strategy in many ways supports the typicality of the sample and analysis: participants were purposively selected, in the form of law teachers teaching legal skills to students from widening participation backgrounds. In demonstrating how context and explanation are closely connected, this study therefore attempts only to show how and why things work the way they do in a specific and strategically selected context.

In view of the above and bearing in mind the discussion of quality criteria in section 3.4, it is worth saying something here about matters such as the rigour, coherence and transparency of the data generation and analysis process utilised in this study, in order to help support any claims made as to the value of this research in terms of its credibility (validity), dependability (reliability), transferability (generalizability) and confirmability (objectivity). To address some of the questions Mason (2017) suggests for researchers to ask themselves from section 3.4 first, I never felt that interviewees made any attempt to evade or dissemble in their answers, and communication was both effective and comprehensive in interviews. Indeed, when participants reflected on their teaching experiences in the interviews, their answers were marked by a striking level of honesty, bearing in mind that these were dialogues rather than monologues, with law teachers openly discussing their hopes, fears and perceived strengths and weaknesses in the context of legal skills teaching. Participants also frequently spoke about how they expected to make practical use of their experiences on their modules.

As stated above, participants were selected carefully and purposively, as informants with experience of not only teaching but also leading courses and modules with significant legal skills components in widening participation contexts. This sampling strategy seemed to be effective, as not only were participants able to discuss their experiences in these contexts in detail but a variety of views were provided from those with different backgrounds and levels of experience. Semi-structured interviews worked well as a data generation method, as they provided a firm foundation for participants to provide answers in response to a carefully designed set of questions, while not being so tightly structured as not to allow for a diverse and often unpredictable range of responses. As intended, thematic analysis was a useful analytical tool both for providing a rich description of the data and a means of approaching its interpretation, as set out in detail in section 4. Finally, as stated in section 3.5, I took pains to maintain my objectivity as a researcher at all times, while acknowledging and mitigating against any potential bias. In terms of the quality criteria mentioned above, I am therefore satisfied that appropriate attention was adopted in my approach to evaluating the literature, taking note of participants' perspectives, considering relevant

ethical issues, suitability of methodology, thoroughness of data collection, breadth and depth of analysis and presentation and clarity of reporting to justify the value of this study in terms of credibility, dependability, transferability and confirmability.

6.3. Implications for professional practice

In terms of implications for professional practice, a study identifying how authentic assessment and PBL have been used previously, their challenges and ways of overcoming these, has wider significance for approaching legal skills teaching in the future. Specifically, the PREPS framework referred to in section 5.3.2 provides a set of guiding principles for incorporating authentic teaching and assessment into the law curriculum in order to prepare students for employment, based on the themes of Practice, Resilience, Environment, Pedagogy and Skills identified in this study. For example, to help fill gaps in legal education when it comes to performance-based assessment tasks, the Teaching for Professional Practice principle highlighted the benefit of staff without legal practice experience working with those who do for mutual advantage. The Teaching for Resilience and Engagement principle recognised the benefits of staff adapting assessments and providing supplemental support for engaging students, particularly those from widening participation backgrounds. The principle of Teaching that Adapts to the Environment illustrated the importance of improving information and communication technology skills for both law teachers and students, in order to better handle a changing environment in both the legal education and employment landscape. From the Teaching to Overcome Challenges of Vocational Pedagogies principle it was shown that a diverse and engaging range of formative assessment practices with real world relevance were essential for enhancing the legal reasoning capabilities of law students. Finally, the Teaching to Integrate Academic and Vocational skills principle demonstrated the need for law teachers to relate authentic teaching and assessment to the behaviour of professional lawyers through more of a focus on vocational skills, in order to help students develop an awareness of appropriate professional practices.

Key to the success of any vocational pedagogy seems to be its synthesis with more traditional academic legal pedagogies when integrating the teaching of legal skills into the law curriculum. Although there were some benefits to taking a module-level approach, such as the freedom for law teachers to make individual innovations, a programme-level approach also seems desirable to maintain common standards and more successfully embed the teaching of legal skills into substantive law modules throughout the law curriculum, integrating vocational skills with academic skills in the process. More tangible recommendations arising from the research findings include the following:

- Investment in curriculum and assessment design training for staff, to help them incorporate PBL and authentic assessment.
- Enhancement of personal tutoring, including selection and training of tutors and increasing frequency of meetings.
- Increasing the use of online learning environments and other technology to support teaching and simulate practice.
- Involvement of practising legal professionals in curriculum and assessment enhancement activities.
- Encouraging students to engage in group work, both in and out of the classroom, and for formative and summative assessment.

The findings of this study seem to imply that law teachers do not necessarily tend to see a distinction between vocational and academic legal skills, nor do they see this distinction as useful when it comes to teaching these skills to law students. One potentially useful outcome of this study is that practical solutions have suggested themselves for addressing this dichotomy, in that many of the tasks that might seem concerned simply with vocational skills (e.g. oral presentations) are in fact useful, in possessing elements of authentic assessment and PBL, for actually developing the sorts of academic and legal reasoning skills that many law teachers traditionally value as well as being relevant to the real world of practice e.g. seeing how law interacts with society and serves public policy, understanding that there may be more than one solution to a problem-based scenario and applying legal principles in practice then reflecting on them. While such promise has

previously been identified in the relevant literature, this study links this potential, for the first time, with empirical data collected from law teachers. This research therefore goes some way towards examining the views of law teachers in relation to some of the potential benefits of authentic assessment and PBL in law referred to in section 2.4.2 as having been largely unexplored previously – including improving student motivation, developing thinking skills, and addressing skills gaps in legal education, as well as enhancing employability. This study therefore provides a firm foundation for further research on the benefits of authentic teaching and assessment with a view to making changes to better integrate these benefits into legal curricula.

7. References

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8. Appendices

8.1 List of Abbreviations

BPTC	Bar Professional Training Course
CLE	Clinical Legal Education
GDL	Graduate Diploma in Law
HEA	Higher Education Academy
ICT	Instantaneous Communication Technology
LETR	Legal Education and Training Review
LL.B	Bachelor of Laws
LPC	Legal Practice Course
QAA	Quality Assurance Agency
QLD	Qualifying Law Degree
PBL	Problem Based Learning
SQE	Solicitors Qualifying Examination
SRA	Solicitors Regulation Authority
TEF	Teaching Excellence Framework
UEL	University of East London

8.2 Information sheet

Project Title: Investigating the practical challenges brought about by the introduction of a vocational pedagogy into the academic traditions of university law courses

Name of researcher: Anil Balan

Start and end dates: 1st September 2020 – 1st December 2021

Information sheet for participants: university law teachers.

Introduction: I am inviting you to take part in my research project, which is being conducted as part of my doctoral research at the UCL Institute of Education. I am also a lecturer in law at the University of East London (UEL). The central aim of this study is to investigate the practical challenges of introducing a vocational pedagogy into law courses in the form of authentic assessment. Assessment is authentic where it replicates what students will be required to do in the work place e.g. by using realistic scenarios, documentation and technology. This information sheet will try to answer any questions you might have about the project, but please don't hesitate to contact me if there is anything else you would like to know.

Who is carrying out the research? I alone will be conducting this project. I can be contacted by email at a.balan@uel.ac.uk if you have any questions or concerns about this project at any time.

Why am I doing this research and why are you being invited to take part? Investigating the practical challenges brought about by the introduction of a vocational pedagogy into the academic traditions of university law courses, as the basis for making changes to better integrate this into legal curricula, is the overall aim of this study. To gain this insight, this study will focus on the following research questions:

- (1) From the perspective of law teachers, how has authentic teaching and assessment been incorporated into the law curriculum (both in discrete legal skills modules and in other modules)?*
- (2) What do law teachers describe as the challenges of incorporating and implementing authentic teaching and assessment practices?*
- (3) How have or might law teachers overcome any challenges in adapting their modules to incorporate authentic teaching and assessment and in preparing students for employment?*

In order to answer these questions what needs to be determined is how far reaching the implementation of practical legal skills teaching in legal curricula has been, the

extent to which the most important stakeholders such as law teachers agree and ultimately what approach this curriculum development has taken.

What will happen if you choose to take part? You will be invited to take part in one interview with me that should take no longer than an hour. Interviews will be recorded and you will be able to read the transcripts. Examples of interview questions appear on the attached schedule.

Will anyone know you have been involved? All findings of this project will be anonymized to protect your confidentiality and you have the right to withdraw from this project at any time up until its end date on 1st December 2021, simply by sending an email to my address above.

What will happen to the results of the research? Findings of this project may be distributed via relevant professional outputs e.g. conferences and academic journals. However, even at that stage participants will still not be named and this confidentiality will extend to not giving away any personal details that might reveal a participant's identity. A report of the findings from this project will also be provided to all participants. All data collected for this project will be stored and processed securely in encrypted files on a university network – to which only I have access – for no more than 3 years in electronic format.

Do you have to take part? It is entirely up to you whether or not you choose to take part. I hope that if you do choose to be involved then you will find it a valuable experience, which might help you to get more out of authentic assessment in future by reviewing your experiences and how they contribute to developing professional legal skills. If you choose not to take part, or choose to withdraw, then there will be no negative repercussions for you.

If you would like to be involved, please complete the attached consent form and return it to me either in person or by email to my address above.

This project has been reviewed and approved by the UCL Institute of Education Research Ethics Committee.

Local Data Protection Privacy Notice

The controller for this project will be University College London (UCL). The UCL Data Protection Officer provides oversight of UCL activities involving the processing of personal data, and can be contacted at data-protection@ucl.ac.uk

This 'local' privacy notice sets out the information that applies to this particular study. Further information on how UCL uses participant information can be found in our 'general' privacy notice:

For participants in research studies, click [here](#)

The information that is required to be provided to participants under data protection legislation (GDPR and DPA 2018) is provided across both the 'local' and 'general' privacy notices.

The lawful basis that will be used to process your personal data are: 'Public task' for personal data.

Your personal data will be processed so long as it is required for the research project. If we are able to anonymise or pseudonymise the personal data you provide we will undertake this, and will endeavour to minimise the processing of personal data wherever possible.

If you are concerned about how your personal data is being processed, or if you would like to contact us about your rights, please contact UCL in the first instance at data-protection@ucl.ac.uk.

8.3 Informed consent form

Title of Project: Investigating the practical challenges brought about by the introduction of a vocational pedagogy into the academic traditions of university law courses

Name of Researcher: Anil Balan

If you are happy to participate in this project, please complete this consent form and return it to the researcher either in person or by email to: a.balan@uel.ac.uk.

1. I have read and understood the attached information sheet giving details of the project. **YES / NO**
2. I have had the opportunity to ask the researcher any questions that I had about the project and my involvement in it, and understand my role in the project. **YES / NO**
3. My decision to consent is entirely voluntary and I understand that I am free to withdraw from this project without giving a reason at any time up until its end date on 1st December 2021, simply by sending an email to the researcher's address above. **YES / NO**
4. I understand that data gathered in this project may form the basis of a report or other form of publication or presentation. **YES / NO**
5. I am willing to allow access for the review of my reflective journals **YES / NO**
I am willing to be interviewed **YES / NO**
I am willing to allow my interview to be recorded **YES / NO**
6. I understand that my name will not be used in any report, publication or presentation, and that every effort will be made to protect my confidentiality. **YES / NO**

Participant's signature:

Date:

Participant's name (in CAPITALS):

Researcher's signature:

Date:

Attachment (information sheet)

8.4 Interview schedule

1. How do you currently teach practical legal skills in your modules?

[FURTHER PROMPTS: How is this assessed (formatively/summatively)? How is feedback provided? Can you give examples?]

2. Are there any ways in which you would like to enhance how you currently teach and assess?

[FURTHER PROMPTS: Do students collaborate when completing formative and summative assessment tasks in the modules you teach? Are students required to mimic professionals in the real world and complete tasks using resources similar to those in the work place, under realistic conditions, in the modules you teach? Do the assessment tasks in the modules you teach call for higher order thinking, reflection and self-assessment? Can you give examples?]

3. Is there any specific aspect of your current legal skills teaching and assessment practices that you feel has worked particularly well? [PROMPT: Can you give examples?]

4. What standard of work do students produce in legal skills assessment tasks for the modules you teach? [PROMPT: In comparison with other more abstract/theoretical types of assessment tasks]

5. What are the challenges for both students and teachers of teaching and assessing legal skills?

6. Is there anything else that you'd like to add that we have not covered but which you think may be relevant?

8.5 Sample interview transcript - Derek

AB: So the first question was how do you currently teach legal skills in your modules?

DK: So, in terms of the teaching it is taught through workshops, so two hour workshops and goes on for one term, so its length is one term and there are twelve weeks of teaching and yes, it is assessed via summative coursework at the end of the term. Should I say a few words about the workshops and how they develop how?

AB: It would be useful to hear it, sort of how you teach it, as well as how you assess and give people feedback as well.

DK: OK, so the main idea is to get the students to work in groups, so I begin, well every workshop is broken down into several exercises, and there is an introduction to each exercise, which is either delivered by the tutor or it involves the students reading some small text, which they will then have to work on in groups. So there are three to five exercises for each workshop and, yes, so the students work on each of the exercises one after the other and the main idea behind the teaching is to try to develop the skills that will be required from them and, well not just in other modules but also in their future careers. So we are focusing on well, what I find particularly interesting because this was already in the module before I became module leader, was that we start with the workshop on critical skills, critical thinking, which I think is an essential even though a bit under-developed skill when it comes to legal skills. So it's not that every law school, at least to my knowledge, includes let alone puts critical thinking into you know the beginning of such a module. So yes, we start with the development of critical thinking and critical reading skills and that first works, it is mostly intended to get the students to engage in a conversation about law. It's functions of society, but also how to try to unearth assumptions, political assumptions, moral assumptions, cultural assumptions that are behind law and legal reasoning more importantly. And then there are a series of workshops on things like how to read legislation, how to read a legal provision, how to read a case, how to find the ratio, how to break down the rule into its constitutive parts. So yes, in other words, the analysis of the law, the discussion of the law, the interpretation of the law, and again, linking back to the beginning of the modern critical, perhaps assessment of the law. So I guess that's what the model more or less looks like again, in very vague terms, and the module is assessed via summative coursework. This is again broken down into three exercises. However, this year I have a couple of ideas about how to make this, to improve this a bit. So last year it was assessed via three exercises: one asked the students to read a passage from an academic work and proceed with constructing a small essay, the other asked them to read a case carefully and answer ten questions on the case, and the third exercise asked the students to summarize one article and one, I mean one academic article, and one case on a topic of their choosing and discuss the relationship between these two. So yes, that's more or less how the legal skills was taught at least and assessed at least last year. There are a couple of ideas that I have for this year, but I'm not sure if you want me to discuss this now or in one of the other questions.

AB: Yes, I think we can get to that actually, that may come up now actually. The next question I was going to ask is, are there any ways in which you would like to enhance and how you currently teach and assess legal skills?

DK: Yes, as I said earlier, this was, last year was the first time that I was in charge of teaching a legal skills module. So I have feedback for myself because I can put it this way and I'm currently in the process of putting my ideas down so and contact the programme leader, in order to come up with, and yes, a way forward in order to address certain shortcomings from last year. So it used to be that the module included oral exercises. So exercises for oral training and oral assessment. Now that part was eliminated last year and I am not thinking of reintroducing it, but I am thinking of perhaps removing elements of the module that had remained in the module guide last year, but were not necessarily assessed, with elements that will strengthen the knowledge and the practice of the students in order to make the assessment, to turn the assessment into a more, if you will, robust way of assessing the knowledge that the students and the skills that the students are supposed to develop. So I'm not thinking of necessarily changing the form of the assessment, but I'm thinking of, as I said, including, well removing the oral part from the module and introducing parts like a, well a practice or a mock, if you will, exercise that will prepare the students like asking them to summarize a case. So take the whole out of the workshop in order to summarize a small case or in order to summarize a small article or in order to discuss the relation between two passages, one from a case, one from an article. So I'm thinking of introducing mock exercises that will prepare the students for the assessment before the assessment, if that makes sense. And in the same spirit, I am thinking of creating an exercise for the summative course work that will focus on one specific case. So, for example, all three, to put it more clearly, all three parts, all three exercises of the coursework will focus on one specific case and on one specific legal concept for example and thereby this would allow the students to be much more focused if that makes sense. And it will enable them to actually develop their skills as if they were working on a single individual case rather than, you know, one passage from one source then another case that may or may not have relevance with the passage and then another exercise on something different. So I'm putting the students, asking the students to work on a specific case on a specific topic while developing different skills relating to this topic if that makes sense.

AB: Great, thank you and do the students collaborate or do tasks which mimic sort of professional practice in the modules that you teach?

DK: Well, there's certainly the element of collaboration, which I suppose is mimicking professional practice. So yes, students are collaborating and they are encouraged to collaborate. All work in the workshops takes place in groups, and yes, but I think that that's an element that I need to see how it is possible to enhance in this year and this is why I'm thinking of introducing such mock exercises, because this will ask them to produce, not necessarily in order to participate in a discussion, but to produce something either in terms of an answer in terms of a presentation to

the whole group, so that's an element that I want to introduce, and I don't think that was quite evident in the way that the module was taught last year.

AB: Thank you, and is there any specific aspect of your current legal skills teaching and assessment that you feel went particularly well?

DK: Yes, so I think that, and again that was not, that was already part of the module when I took over, the fact that the workshops are broken down into specific exercises. So there is, if you will, a central narrative for each workshop but there are different exercises on similar topics that allow the students to focus on different skills, but maintain, if you will, an element of continuity. I think this has worked particularly well and this is something that I want to strengthen rather than reduce. So any elements that will be removed from the module this year will not affect and any elements that will be introduced in the module this year will not affect this, well, this continuity and this structure that it works and has. So this separation into specific exercises while maintaining this continuity of a narrative, and again this narrative, to come back to the first question, is about how to how to deal with a legal rule, how to break it down, how to analyze it how to interpret it, how to apply it to specific case.

AB: Yes, terrific, and what standard have work do students produce in your legal skills assessment tasks in comparison with more abstract or theoretical types of assessment tasks in other modules?

DK: Now I have a question here. When you say standard of work, what exactly are you looking for?

AB: Yes, what I'm really looking for is, is the kind of end product as accomplished for the legal skills task as it is for abstract, you know, essays and things like that, or is the standard lower or do students get much higher marks, for example, in legal skills assessments?

DK: OK, yes, that makes sense, so initially I think the idea was not to make it easier on the students, but I think the nature of the module itself, so the fact that the skills that they acquire in the module are supposed to be skills that they will be using in other modules and will be assessed in other modules. So the idea is to make this as accessible, if that makes sense, as possible. So, for example, when I asked them to write a small essay, what I was really looking for was their ability to well, more or less the same elements as we are looking for in other modules, in the assessment of other modules, so the ability to read the question carefully, evaluate what the question is asking, evaluate the relevance of the material, be able to create a coherent response. But what the team was interested in when marking the coursework was really the ability of the students to perform these basic functions to showcase these basic skills, such as reading a source carefully, such as creating a coherent answer, such as referencing properly, so we were not, for example, expecting in depth analysis or critical discussion. The same goes for the other exercises, so for example in the exercise, the reading exercise, reading a case and

answering questions, this was a very straightforward exercise which was meant more to make sure that the students will actually engage with the question and the questions were so designed in order to get the students to even look for a very small, let's say, element of a case that was not central in the case, but would require from the students to actually look for it in the case. That, yes, it wasn't something very demanding, but it would ensure that the students would read a case carefully and in depth. The third exercise asked the students to do the same but in a different. let's say, for a different purpose. So in summarizing the case, and in summarizing an article, the students again had to learn how to, let's say, get to the crux of the matter and that third exercise also included an element of discussion, which again I wouldn't say that it was lower, that we expected the discussion at a lower level than expected in other substantive modules, but perhaps of a different nature, if that makes sense, discussion.

AB: OK, thank you for that, that's great. What are the challenges for both students and teachers of teaching and assessing legal skills in your view?

DK: Well for me one of the main challenges is, and again this goes back to the nature of the module itself, the lack of substantive content I have. Well in all the modules that I'm teaching, I'm trying to get the students to develop these skills. However, it's not the object of substantive modules to do that. That's why you need a module that is intended specifically to do that. But then the challenge is that you never know where a student has strength in terms of substantive knowledge, you never know if they will find a topic interesting. So it's always challenging to find a topic that will get the students to engage with issues that are controversial. But then again, a very controversial issue might derail, if you will, the discussion, might derail the workshop into, let's say, discussions that are off the purpose of the workshop. So I think that's the main challenge, and this is a challenge both for the teaching and for the assessment. So when I was, I remember that when I was at a planning the assessment. I had great difficulty coming up with a way to narrow down the options for the students to choose an article, a journal article or a case to summarize, because, well, first of all this would require from me some knowledge, substantive knowledge in order to be able to assess what the students were writing, but also from the students themselves. I mean, it would turn the module into, allowing the student perhaps to choose from each topic they wanted a case to summarize or a journal article to summarize would then contradict principles of fairness, equality, etc. And then, yes well I came up with this idea of asking them to choose an article from the European Convention on Human Rights, which is a very general legal document that they all have familiarity with. And this has also led me this year to try to narrow this down and perhaps ask them to read a case. I already have a case in mind that will combine several aspects of law, several areas of law and ask them to focus, so prepare a coursework that will, all of which parts will focus on this specific case and this will be generic enough, it will combine in different areas of law that will enable the students or that will enable all of us, both the tutors and the students, to overcome this difficulty of a lack of substantive content. Now, in terms of other challenges, it is challenging to combine the different elements of the assessment, and this comes back to the point I mentioned earlier. So the, well legal skills are not

just written, they are also oral, and they are also presentational, both written and oral, and the oral part of the assessment was eliminated last year, because of the change in the way that the module was delivered from a two term module to a one term module, so from a 30 credit to a 20 credit. So this required the elimination of the oral part of the assessment and it's resulted in an imbalance last year, an imbalance that I intend to correct this year. However, even if we abstract from the legal skills module as I teach it, I think it is a challenge to keep both sides, both skills, both sets of skills in a module, especially if it's a module that is taught in one single term and it is hard to keep both sides in the assessment. And the other thing that I was thinking when I was reading the question is perhaps the lack of both the infrastructure but also the manpower, if you will, to prepare a proper oral exercise, an oral assessment. So yes, I think that's a challenge that, as I said, personally I am not facing but I think if this module was to be taught, in order to strengthen both sets of skills, both written and oral, especially the oral part is something that would need more resources, both in terms of infrastructure and in terms of manpower, so more members of staff would have to be involved with how the oral skills are developed and how they are assessed, if that makes sense.

AB: OK, thank you very much for that. And really, the last question, we've covered quite a lot already, but is there anything else that you'd like to add that we haven't covered, which you think might be relevant?

DK: No, not really, not unless you think there's something that has been left uncovered.

AB: No, I think those have been very full answers, so I'm proposing to end it there.

8.6 Example of coding – Rick

AB: Okay, following on from that because you sort of touched on the kind of, sort of restrictions if you like at the moment, but are there any ways in which you'd like to enhance how you currently teach and assess legal skills?

R: I would be more open to and thinking about enhancing ways of assessing. I'm not so much open to and when I use the word enhancing, I mean at the moment I personally I'm getting by using the technology in a very simple and straightforward way. And I think I may have said, you know, I say to colleagues very much with my tongue in my cheek, but I am deadly serious that when I go on to teach a lecture or seminar I just ask the students two simple questions: Can you see the slides and can you hear me? And if they answer affirmative to both of those, then I carry on. I find if you try to over egg the pudding by splitting screens and trying to cast out break rooms and all this sort of thing, it just gets very complicated for me. I know there are different levels of ability both with students and with staff in the use of this stuff. I know there are members of staff who are much more au fait with this stuff than myself, so all I want to do is what I do every time is just to get the information across as clearly as succinctly as possible. So if I am innovating in any way it is through the finding different ways to assess rather than to deliver. I'd like to keep the delivery simple and straightforward.

Technology code
Links to Pandemic
code
(Possible theme
based on this
thematic link)

Technology
(see above)

AB: Do the students collaborate at all in either the formative or summative assessment that you that you do, and if so, how do they do that?

R: Well again I have to draw this line. I have to go: BC and AC, you know before covid and after covid. Before covid there's lots of collaboration, there's lots of group work. I would divide them into various groups of pro and con and prosecution to fit all this sort of thing would hammer out various issues. I wouldn't do that so much in their summative assessments. I would do that more in the formative route where that would that would allow them greater scope to make mistakes and things like that, and then get it right for more sort of summative assessment. Yes, I think that's right. I will admit that getting students to collaborate by themselves in this online arena for me is difficult.

Pandemic
(possible sub-code
of rapid change)

PBL/AA codes
(possible sub-code
of group work)
Data links up to form
a theme on Pedagogy

AB: Okay, and obviously you have got a background in practice, do the tasks that you give to students in seminars mimic what professionals do in in the real world?

R: In as much as is possible, yes, and when we do carry out exercises I do explain to the students why we're doing it and I do explain to them very much that this is, you know, the skills that we are attempting to or beginning to cultivate are skills that will see them right through not only their academic studies but in to professional life as well. That this is what proper lawyers do, this is how proper lawyers operate. You know, this is how proper lawyers, real lawyers draft a document. You know, this is the kind of language because I, you know, I always instil in them that every profession has its language and legal terminology is very important. When you hear doctors talk among themselves, they use this shorthand language that we don't understand. I happen to know airline people and when I'm with them a lot they use this shorthand, lots of acronyms and things like that, and it's the same with the law.

Academic/Vocational
Skills codes (data
links up to form a
theme on Skills)

Professionalism/
Employability codes
(Data links up to form
a theme on Practice)

Example of coding – Ray

experience in an office or in court or that sort of thing, it could be difficult for them to relate to this subject as much as someone who has been a practitioner. Now let me put that in more context. I think that's particularly important for solicitors because we are more practical people, we're more on the front line, we're facing the client, we deal with client's money, we've got a fiduciary relationship. Whereas if you are a barrister, I think they can bend more to the academic side because they're basically looking at points of law, they're arguing points of law in court, they're more academic in that sense and if the person who's teaching that you won't have any drawbacks if you have a great academic teaching you if you want to go to the bar or if you want to become a judge or something. I think where you will have a difficulty with a teacher like that is if you want to be a solicitor or you go into a commercial practice or something because there I think you need this sort of adjustment in it, you know, it's not a big problem by any means, but I think it's very helpful indeed if you have someone in practice I think.

Employability code
(possible sub-code
of work-readiness)

AB: the final point is that is there anything else that you'd like to add that we haven't covered already on the subject of teaching practical legal skills?

MR: Yes, I think that having had some recent experiences with a few arbitrators I know, it's only a very minor thing but it's a bit of a nuisance in a way. A lot of things now are documents only, they're done online, we have Zoom meetings, we have mediations for instance all done by Zoom I think. Our conference calls are done similarly to Teams, I think there's Adobe Connect or something, other people use those sorts of things and there are various other programmes that they use. What I find is that a lot of the firms tell me I was speaking to Fenwick Elliott last week and I know from Freshfields as well that at the moment only twenty per cent of the workforce is in Freshfields for instance out of a hundred staff in Fenwick Elliott only twenty people are in the office, things like that. So we are becoming more digitalised, it's not necessarily a good thing because you like personal contact but I think that they have got to be more aware. We have seen all of the problems that we have had during this pandemic about teaching mostly online but I think that's going to come anyway. I think that a revolution is on the way; it's like the invention of the telephone. So in addition to everything else they have got to master all of these new things, you know, it's not just typing up for a work programme or something like that or doing emails, I think now that this sort of revolution is coming on, which is revolutionising court proceedings and office work as well. Now to back that up I'm having a Zoom meeting I think with one of the partners of Deloitte, whom I met at a moot competition at LSE last year. I know him fairly well and he was telling me last year that he opened up a new office. He said come and have a cup of coffee with him and he said in five years' time we won't have this office. I was quite staggered, you know spending millions on an office, but in a few years' time he said most of the staff will be online and there will just be few people just in a sort of administrative centre or something, so that may come about you know and this pandemic may accelerate that I think. So I think that's where we have to be thinking ahead and if this AI thing comes on how will that affect things. There's already articles in the Law Society Gazette about stuff like this. I don't quite understand it

Technology code

Technology code
(possible sub-code
based on staff use
of technology)

Pandemic code
(possible sub-
code of future
predictions)

Highlights thematic
link between
technology and
pandemic codes,
(suggests theme
based on this link)

Example of coding – Nora

AB: OK, that's useful and I think really the last main question is what do you find to be the main challenges for both students and teachers when it comes to legal skills?

ES: I think when students realize they have to do a skeleton argument, I mean, even though it's in the module spec and stuff you know, I think there's sort of initially, oh well, I don't know what one is, how my going to do it. You know it's a sort of defeatist attitude. And so you have to you know get them on board, so to speak and with the mock trial it's well if it's not going to go towards my grade, what's the point? They're very much focused on their assessment and what counts toward their degree rather than that sort of thing, but then not everything can be assessed. They sort of not as interested, but then because the Old Bailey is like something they can write about on their CVS if they do want a legal career, because quite often if you want to go to the Bar you have got to have evidence of advocacy, it's a good neat way to do it. So they do sort of want to do it once you have that conversation, but I suppose it's just making them realize the utility of it and it's usually if it's something they haven't done before then usually their approach is all I don't want to do that. You know they'd rather stick with what they know. But then they do come round.

AB: And I guess it's connected but the challenges for you as a teacher in in teaching them?

ES: Um, well, the challenge is the labour intensive aspect of it. That is actually a challenge. I mean because obviously Cambridge and Oxford famously do one to one. But when you look into it, and I hadn't appreciated this, that I don't think that that is done by the tutors or like the course leaders. I think it's done by graduates. Basically I would query the value of that but I'm sure that they know what they're doing, but it's just in terms of us, the only way of doing this is if we do it and that I don't know how sustainable that is. That's the problem. It's very labour intensive to introduce skills in the right way, like in the way we do it. You know, the skeleton argument that is a major thing to teach a student, so it's the time aspect. Basically because it is, you know there's extra workshops, there's one to one, there's feedback that's face to face feedback. So it's just the challenge is how labour intensive it is.

Widening participation code (possible sub-code of emotional support)
Links to Student Engagement code (suggests theme based on this link)

AB: OK, thank you for that. And really, I think that just the closing question is just is there anything that you'd like to add that we haven't covered already that you feel might be relevant when it comes to teaching and assessing legal skills.

ES: I mean, I did, the only thing that occurs to me is how to say you know the legal skills that I think about you know there is drafting, there's research, advocacy, interviewing so that's all fine, you know taking instructions, they're all fairly easy. The bit that I found quite wishy washy, but I know that our students are interested in is the kind of idea of commercial awareness. Because a lot of the you know a lot of the assessments now it feels like they have been led by city firms and I just wondered how that's integrated into undergraduate level, the sort of commerciality, which is quite important. And so there are those skills but I don't really know. Yes, that's the thing I think that we're missing.

Employability code (possible sub-code of work-readiness)