

## Developments in legal education: testing times for Northern Ireland?

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### Abstract

*This paper seeks to explore the impact of potential changes on the provision of legal education in Northern Ireland. Talk of Training Frameworks and the potential development of an overall qualifications framework for legal training in Europe come at a time when the School of Law at University of Ulster is proposing a single honours LLB programme to run alongside existing Law major programmes and a new vocational legal practice course, the latter shaking the very foundations of legal education provision in Northern Ireland. Legal education in the Province is in a state of flux. These developments will undoubtedly have an impact on teaching both at undergraduate level and at the vocational educational stage. This paper aims to explore the opportunities and challenges which face the provision of legal education at University of Ulster.*

**Key words:** Legal education; training framework; vocational.

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### Legal education in the UK and Northern Ireland

Northern Ireland along with the rest of the UK perhaps has one of the most comprehensive legal education systems in the world.<sup>1</sup> We have a unique two tier system of academic study and vocational education geared to provide a thorough grounding in legal principles, practice and process. In the UK, law schools are performing well. LLBs are one of the most sought after programmes for school leavers<sup>2</sup>; in the last Research Assessment Exercise (RAE) law schools received a healthy proportion of Grade 5s<sup>3</sup>; with regard to Learning and Teaching methods real progress has been made in innovative methods (for example Clinical Law, the use of reflective learning logs and portfolios); and lastly, but not

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<sup>1</sup> For commentary see the UK Center for Legal Education (UKCLE) editorial 'New opportunities, but where's the will (or the money)?' at <http://www.ukcle.ac.uk/directions/issue7/editorial.html>

<sup>2</sup> There were 1458 applications for Law at the University of Ulster for the 06/07 academic year.

<sup>3</sup> Including the School of Law at the University of Ulster.

least, it is arguable that, second to Australia, UK vocational legal education is perhaps the best preparation for legal practice anywhere in the world.<sup>4</sup>

The picture seems positively glowing. However, there is another school of thought which argues that, despite this perceived acclaimed status as a world leader, our legal education system is outdated and has failed to keep pace with national and international developments.<sup>5</sup> Particularly in the context of Northern Ireland, it is apparent that we are somewhat lagging behind developments in the rest of the UK. The sole current provider of professional legal training in the jurisdiction is the Institute for Professional Legal Studies (IPLS). This Institute was developed in the mid 70s and was extremely innovative, highly acclaimed and a model of best practice at the time. However, there has been no substantial change in the last thirty years. It is in light of this and pursuant to the strategic objectives of the University, that the School of Law is currently in the process of planning the provision of postgraduate legal education in the form of a Postgraduate Diploma in Legal Practice for prospective solicitors.

The current (and only) scheme for qualification is prescribed by legislation<sup>6</sup>, which sets out most particularly current methods for becoming a solicitor. Any solicitor student who wishes to obtain entry to IPLS must apply to sit the entrance exam held in December of the year of application. Successful solicitor students then complete a two-year period of apprenticeship with training in an office by an experienced solicitor known as a 'Master'. Students cannot enter the IPLS without having secured the relationship formally with a

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<sup>4</sup> See note 1

<sup>5</sup> For commentary see the UKCLE editorial 'More imagination. Less dogma' at <http://www.ukcle.ac.uk/directions/issue9/editorial.html>

<sup>6</sup> The Solicitors Admission and Training Regulations 1998, as amended, made following the Solicitors (Northern Ireland) Order 1976.

Master through the Law Society. The two-year training period begins in September with training carried out in the Master's office until December. Then there follows an academic year of attendance at IPLS four days per week (students attend the office one day per week and during the holiday periods). The final six months are spent in the Master's office. Solicitor students must be registered as students of the Law Society of Northern Ireland. The only exception to this mode of training is in relation to individuals who can demonstrate to the Law Society that they have seven years' experience in a solicitor's office and that they satisfy the requirements of the Solicitors' Order. These students attend IPLS normally on a part-time basis.

The lack of IPLS places is driving many Northern Irish students to travel to England where they study the English vocational course (LPC). They then have to complete a two year training contract in a solicitor's firm or equivalent. The result is that we are losing many good students. Further, there is currently no part-time provision for vocational legal education within Northern Ireland. This contrasts sharply with provision in mainland Britain where there are a range of part-time and block (weekend) courses on offer, thereby providing access, particularly to part-time students.

The University is confident that there is a demand for an alternative course for solicitors' training in Northern Ireland and wishes to begin to deliver such a course to solicitor students in Northern Ireland. The University has a longstanding commitment to widening access and participation in education and training. Consequently, the programme would be offered on both a full and part-time basis. Such a development would permit us to cater for the needs of all our students from the inception of their legal training until completion of their vocational training, including those who are currently unable to enter vocational

training on a full-time basis due to domestic or financial constraints. The University proposes to locate this course at its Magee Campus, under the aegis of its North-West Development Plan and within the School of Law. Its provision will support one of the University's key aims, that of widening access and participation.

The course will provide a natural progression for the majority of undergraduate law students who wish to pursue a career as a solicitor in Northern Ireland. Students who have completed a qualifying law degree or non-relevant degree plus the core<sup>7</sup> options may seek admission to this course as it provides the natural sequel to undergraduate study for students wishing to pursue qualification as a solicitor in Northern Ireland. The proposed course does not duplicate the teaching on any other undergraduate or postgraduate course offered at the University.

It is in the context of this background that we examine the development of legal education in Northern Ireland and in many ways these are testing times for law provision in the jurisdiction.

In March 2005, the Law Society of England and Wales published the latest draft of the Training Framework Review (TFR). If implemented it could dramatically change the face of legal education as we know it. The report is based on an outcomes-based approach which seems to question the need for any higher education experience. At one extreme, commentators have indicated that ultimately the traditional Qualifying Law Degree (QLD), LPC and Professional Skills Course could be rendered obsolete. On the other hand, these

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<sup>7</sup> The core modules are currently Public Law, Land law, Equity, Contract, Tort, Evidence, EC, Criminal law. See <http://www.lawsoc-ni.org/guide.htm>

proposals provide an opportunity to explore and engage in debate concerning legal education provision which many claim is long overdue.<sup>8</sup>

In Northern Ireland the TFR does not have any specific remit but it does, of course, offer an opportunity to take stock of our general academic and vocational provision.

The TFR relates only to vocational training but may have a potential impact on undergraduate study also. Is the traditional LLB an 'endangered species'? How will the review of legal education ultimately affect undergraduate and vocational training?<sup>9</sup>

Undoubtedly there will be an impact and law schools need to contemplate how they will provide for legal education in the 21st century. There are many positive factors indicating continued and, indeed, increased popularity of law as an academic subject. We have witnessed a massive growth of the LLB in recent years, increasing applications and a perspective that an LLB is a 'good degree' (although the majority of entrants choose Law in the hope of becoming a practitioner).<sup>10</sup>

Against this backdrop the challenge for legal education providers is to create a sufficiently flexible system of education, training and qualification. It is likely that for the foreseeable future legal education in NI at undergraduate level will remain unchanged but we must not be complacent and think that just because our degrees attract increasing numbers of students and we produce good graduates that we are doing what is right. We need to

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<sup>8</sup> For commentary see the article by Chris Ashford, 'A quarrel far away? The Training Framework Review and the undergraduate law school' at <http://www.ukcle.ac.uk/directions/issue11/ashford.html>

<sup>9</sup> See note 5.

<sup>10</sup> For commentary on career choices of law students and trainee solicitors see 'Twin peeks at career expectations' at <http://www.ukcle.ac.uk/directions/issue10/peeks.html>

address the challenge of creating a sufficiently flexible system of education, training and qualification.

### **Undergraduate law programmes at the University of Ulster**

The approach to teaching and learning within Law programmes at the University of Ulster is fully in accord with the commitment of the Faculty of Social Sciences to develop students as lifelong learners and to enable them to acquire skills and knowledge which will enhance their employability and capacity to contribute to society.

In general the Law programmes aim to:

- Manage the development of learning and teaching activities to deliver a relevant and high quality programme to students
- Develop and apply an appropriate range supported by effective assessment mechanisms which match the intended learning outcomes and enable students to take more responsibility for their own learning
- Develop and maintain a balance between academic standards and the development of relevant skills
- Integrate research activities and findings into the enhancement of learning and teaching provision wherever possible
- Provide an effective guidance and pastoral care system.

For the vast majority of law teachers today their main memory of undergraduate education is that of the lecture/seminar format, the lecture often underwhelming and lacking in interaction.<sup>11</sup> Despite this, the majority of law students today are taught in the same way and many accept that this is the tried and tested formula.

In order to meet professional requirements, all QLDs have to include the 8 core legal modules in their curriculum. This imposes constraints on what can be taught but not necessarily on how it can be taught. How do we then engage our students with more

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<sup>11</sup> See note 5.

relevant and interesting teaching methods? The TFR encourages an approach based on learning outcomes not on core law modules which is presently the case. It is clear that the modern curriculum is changing and branching out into new specialisms. Employers demand that graduates have more diverse combinations of knowledge and skills. In order to facilitate both the changing demands and new areas of legal expertise, the LLB has to respond accordingly if it is to continue to attract high calibre students and meet the needs of the profession. In the context of University of Ulster, we have seized the opportunity to address some of these issues in our recent revalidation exercise of existing law major programmes and validation of the newly proposed single honours LLB.

The Law programmes offered enable students to enhance their abilities and potential to contribute to economic and social progress in Northern Ireland and prepare students for career and personal development. These aspirations are achieved through the use of creative learning and teaching on all programmes.

The content of the Law programmes seeks to maintain a balance between academic rigour, vocational expectations, and professional and personal skills. Programme content is influenced by a variety of guidelines, including the National Benchmark Statement for Law and by developments in programme specification. In addition, programme content and procedures are influenced by the course planning process, annual subject reviews, and feedback from various sources including external examiners, student questionnaires, subject and staff-student committee meetings, module monitoring, Graduate Surveys and the views of employers. The National Student Survey results for 2006 reflect very positively on the undergraduate programmes at the University of Ulster with an overall score of 3.9 for the quality of the teaching the students had experienced.

TFR has generated much discussion and controversy. Whilst not directly applicable to Northern Ireland where we have our own Law Society with its own prescriptive rules, it nonetheless comes at an opportune time for examining the provision of professional legal education in Northern Ireland. At undergraduate level the sole provider in Northern Ireland has been the Queen's University of Belfast with the University of Ulster only featuring in the last 15 years. Both universities by and large follow the traditional model as designated by the Law Society for Northern Ireland. The concept of an outcomes-based approach is alien to Northern Ireland and in order to attain QLD status, it remains the case that certain areas of substantive law are deemed necessary for any future practitioner and, therefore, have to be covered at undergraduate level (very similar to the current position in England and Wales). These are the core subjects currently required to be embodied in an undergraduate programme. The TFR, however, is predicated upon the final outcomes of any programme undertaken rather than specifying the substantive content. This outcomes-based approach has generated mixed feelings within academia and the legal profession. It is generally accepted that undergraduate education is seen as a springboard to vocational training; thus it is unlikely that there will be much change to undergraduate provision and we question any serious impact on vocational education, particularly within Northern Ireland.

### **Vocational training**

In seeking to develop a new course there have been a number of hurdles. We have sought to produce a challenging and innovative course that will meet the anticipated requirements of the Law Society and the wider profession.

There is a vacuum in Northern Ireland at present in terms of accreditation and regulatory structure for providers. As explained earlier, there is only one current provider in the Province. Whether the Law Society will formulate a formal accreditation process in the future is a matter for the Society – for the time being it remains the only Law Society in the UK not to provide such a formula for intending providers wishing to enter the marketplace. Given that there are arguments in favour of opening access in terms of equality of opportunity and widening participation; and also given that a part-time course seems to be a basic entitlement of the student with family or work commitments (as already indicated a part-time course is currently not available in Northern Ireland which arguably makes our current system Dickensian in its approach), it may be that the Society will turn its mind to the provision of such a formula. In the Republic of Ireland, where there is equally no accreditation formula, some changes to the format of available courses have recently been made so as to create places for part-time students. This move was perhaps thought necessary in order to pre-empt the anticipated criticism by the Irish Competition Authority in their final report into Legal Services<sup>12</sup>, published in December 2006. Among the Competition Authority's 29 recommendations, they propose the abolition of the Irish Law Society's control over the vocational education of intending solicitors which is seen as restrictive.

In Northern Ireland professional education of intending solicitors is similarly controlled and our Law Society has not formulated an accreditation framework. Consequently, we, in the University of Ulster, have had to develop our own thought processes blindly, without knowledge as to the stipulations that our Law Society would have wished to put in place. On the other hand, we have arguably had *carte blanche vis-à-vis* the suggested course

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<sup>12</sup> See [http://www.tca.ie/NewsPublications/NewsReleases/NewsReleases.aspx?selected\\_item=181](http://www.tca.ie/NewsPublications/NewsReleases/NewsReleases.aspx?selected_item=181)

design. A good starting point has been a comparison of some of the regimes in locations close to Northern Ireland.

We have looked fairly extensively at the procedures for qualification in both England and Scotland. In both jurisdictions students wishing to qualify as solicitors complete a one year (or equivalent) course<sup>13</sup>. In Scotland, the course is a Diploma which includes seven core areas - Conveyancing, Private Client, Civil Court Practice and Criminal Court Practice (litigation), Financial Services and Related Skills, Practice Skills, Professional Ethics and Conduct. In addition, there are two electives, of which one must be taken, namely Company and Commercial or Public Administration. The English LPC is similar in that students cover three main areas – Litigation, Property Law and Practice and Business Law and Practice. Students also take three optional modules. Furthermore, they cover a number of areas including Practice Management, Ethics, Human Rights, European Law. These are taught pervasively (this means an integrated approach – ‘pervasive’ is the description used by the English Law Society). In addition, practical skills taught on the course are also taught pervasively. Recent developments in England have led to a demand on the part of some of the largest firms for their students to be more versed in commercial and corporate practice and procedure which has in turn led to the development of the ‘City’ LPC. By comparison, the original LPC is often described as the

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<sup>13</sup> Students in England take the LPC and those in Scotland take the Diploma – see later. Both qualifications are followed by a two-year period within a professional environment. Subsequently, students in England take a further qualification (Professional Skills Course), which is integrated into the two-year training contract. This further course consists of a 12 day course covering advocacy and communication skills, financial and business skills and client care and professional standards. In Scotland a similar course is taken during the two-year training contract, namely the Professional Competence Course. This consists of 36 hours teaching and is a skills based course which builds on the work that students experience in their offices.

'High Street' LPC and suits the student who will deal more with private clients and small businesses.

Scotland has a smaller jurisdiction than England and the jurisdiction in Northern Ireland is smaller again. There is not as much facility in Northern Ireland for specialism although arguably that is changing to an extent. Firms in Northern Ireland are much smaller in size than firms in both Scotland and England; in other words there are generally less partners and practitioners per individual practice. The typical kind of work undertaken by firms in Northern Ireland is more akin to a general practice and to this extent also we are somewhat similar to Scotland. Given the similarities in the nature of practice, we have modelled our proposals to an extent on the recommendations of the Scottish Law Society.

We have proposed a course ranging over one academic year or equivalent. It concentrates on the outcomes which must be delivered including:

- A range of practical skills and knowledge base necessary to equip students to enter practice as trainee solicitors
- An understanding of the application of law in practice
- An appreciation of the concept of professionalism and ethics in line with current professional standards
- An ability to bridge the gap between the academic study of law and the practice of law
- An ability to communicate effectively with clients, lawyers and non-lawyers in a professional capacity
- An understanding and appreciation of the need to take future responsibility for their own professional development.

If it is not thought contradictory (one might be forgiven for thinking that it is in terms of some of the recent discussion on the outcomes-based approach and the TFR), we have also specified the content to be covered. In contrast with the current course at IPLS which delivers a large range of small courses, we intend to offer a range of larger modules including Conveyancing, Will and Probate, Civil Litigation, Criminal Procedure, Business

and Commercial, Financial Management, Practice Management, Case Study, Professional Ethics and Conduct. The Professional Ethics and Conduct module has been added as a dedicated module to underline the importance of ethics to today's practitioner and also in line with requirements in Scotland. In addition, ethical issues will be integrated into other modules as appropriate. The Case Study module will both provide a vehicle to encourage and develop a student's ability to conduct practical legal research and also draw together the strands of the other modules in a real life manner which emulates the way in which clients give instructions which do not fit nicely into a 'Conveyancing' or 'Private Client' box and so on.

We are proposing a skills based course which aims to develop the skills that solicitor students will require in practice rather than developing a large knowledge base. Our rationale is that we should provide students with a platform in which they may learn by doing themselves the sorts of things that they will meet in practice. They will arguably acquire more relevant experience in this way and will have opportunities to work out for themselves the steps and strategies they ought to be considering. A more participative environment than the traditional lecture setting for students is, therefore, envisaged throughout the course. It is not intended that students will meet all the aspects of content that they will eventually face in practice and, consequently, the ability to conduct practical legal research becomes more crucial. Although research skills will receive heavy concentration in the Case Study module, there will also be aspects of the other modules that seek to address students' skills in this direction and research will additionally form a part of the assessment structure.

An examination of current pedagogic thinking reveals the emerging importance of the

compilation of a portfolio, enabling students to develop career relevant skills that are reflective in terms of the incremental acquisition of skills<sup>14</sup>. Students will, therefore, be involved in the preparation of a skills portfolio. This will be an overarching and ongoing document and not confined to one area of the curriculum, to be developed by students as an integral part of one particular module taken towards the conclusion of study. The development of the portfolio will enable students to undertake an examination and appreciation of the skills employed throughout the course.

Generally the drafting of the course documentation has been informed by the views of an Advisory Group. This body was set up by the University in order to assist with course planning and design. The membership has been drawn from the local senior profession to ensure rigour in terms of design and content. As a part of the regular and ongoing course enhancement required by the university, we will at an early stage of the development of the course seek to canvass a wide spectrum of the profession in order to try to gauge more formally the wishes of the profession in terms of desired outcomes. In addition, we have drawn upon our own best practice as well as that of other vocational course providers across England and Scotland.

The modules and content have largely been determined by the views of the Advisory Group and reflect the areas covered in a great many, but not all, solicitors' practices in Northern Ireland. The chosen areas also reflect fairly closely the modules covered in Scotland and the 'High Street' as opposed to the 'City' LPC in England. The modules will allow students to study particular areas over a period of weeks to assist in the

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<sup>14</sup> See Karen Barton and Fiona Westwood, *Stopping to think: reflections on the use of portfolios*, Glasgow Graduate School of Law, <http://www.ukcle.ac.uk/resources/vtf/barton.html> .

development and maturation process. The selected content and skills are thought to be appropriate for the profile of the typical NI firm and so all modules are compulsory.

Specific areas of content will be taught in discrete modules. Some areas of content will be taught across some or all of the modules and in this sense will be pervasive. Human Rights and European Union considerations are not to be taught discretely but will each appear respectively in nominated substantive modules in order that students may experience issues relating to each, something which is essential in the increasingly Europeanised and globalised world in which all professionals operate. In as far as possible, the course will be taught in a transactional manner. Students will be presented with a client/set of instructions and will then open 'files' and carry out procedural tasks in ways that simulate practice. In this way, we will develop various transactions and procedures similar to the way in which they would develop in practice. For this reason, small staff student ratios will be maintained in the small group teaching. We will aim to utilise electronic resources and computer programmes as fully as possible. We will also seek to draw on the use of our own drama students in role play exercises and the development of DVDs for learning purposes.

The specific practical skills to be taught are negotiation, advocacy, drafting (letters and documents), interviewing and legal research. The emphasis throughout the course will be on the development of skills rather than solely on content. It is thought preferable to equip students with the necessary skills, including legal research skills, thereby allowing them to develop an ability to learn for themselves. Students will require to be suitably equipped in any event to keep abreast of change in areas of practice and procedure as well as

regarding substantive legal issues. This approach will help to emphasise that students must learn to take responsibility for their own learning.

By way of example we envisage entire modules consisting of a long running 'case' or legal transaction beset with issues and problems. It will be the job of the student to 'learn through doing' how the various issues are addressed, how to advance each stage of the process, the types of proceedings required, how to conduct those proceedings and so on. Ethical issues will be interwoven throughout as appropriate. This teaching and learning strategy creates a more participative environment for students. Furthermore, this approach parallels the work in which solicitors will engage in their professional lives.

### **Conclusion**

In the context of development of legal education both academic and professional, we must deliberate on this exciting challenge. The discussion is not confined to undergraduate and vocational education but also extends to our Law Society in that the concept of accreditation of new vocational courses is a novel concept in Northern Ireland. Indeed, not only will any new course face the accreditation hurdle but certainly, at the inception of any new process, we would have to address the current legislation which would in turn require amendment in order to permit a second provider to enter the market. Those who deliver and are responsible for the provision of academic and vocational legal education in Northern Ireland ultimately have a pivotal role with regard to this debate concerning possible new developments.

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