

CHAPTER 4

Take-home exams: Developing professionalism via assessment

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Introduction

In 2012, Confederation of British Industry (CBI) research in the UK identified seven key employability skills sought by graduate employers: self-management, teamworking, business and customer awareness, problem-solving, communication and literacy, application of numeracy and application of information technology; these were in addition to a positive attitude and enterprising mindset.² Law as a discipline is both academic and practical. The effect of this combination is that a law degree has currency,³ due to the sought-after and transferrable skills, such as those identified by the CBI. Consequently, it is an ongoing challenge for law lecturers to develop learning, teaching and assessment materials; not only providing students with the knowledge to complete an academically

1 The authors are grateful for the invaluable guidance provided by the anonymous reviewer and for the helpful comments from attendees of Buckinghamshire New University's Scholarship in Action Conference (27 February 2013, High Wycombe, UK), the Association of Law Teachers 48th Annual Conference, All Consuming Legal Education (24–26 March 2013, Nottingham, UK) and one-day conference 50 Years of Assessment in Legal Education (29 January 2015, London, UK). This chapter was last updated in October 2017. The usual disclaimer applies.

2 CBI and Pearson, 'Learning to Grow: What Employers Need from Education and Skills. Education and Skills Survey' (2012) 32 <www.bl.uk/collection-items/learning-to-grow-what-employers-need-from-education-and-skills-education-and-skills-survey-2012> accessed 15 July 2019. Registration required.

3 'In addition to its traditional role, a law degree is presented as a valued form of analytical training that provides a useful pathway into other fields and careers': P Devonshire and I Brailsford, 'Re-Defining Learning Outcomes: A Case for the Assessment of Skills and Competencies in a Law Degree' (2012) 25 *New Zealand Universities Law Review* 1, 3.

rigorous degree successfully, but also putting that knowledge in context, by relating it to commercial awareness and career planning – what will be encountered either as a practising lawyer, or in the workplace within another industry or profession. Arguably, merely possessing the skills traditionally attributed to a law graduate does not make that graduate ‘employer ready’; just like successful completion of a law degree does not necessarily engender them with professionalism. We agree that academic study is enhanced by the active development of skills and competencies,⁴ but there is more that can be done in higher education to develop these professional skills.

Meeting the mentioned teaching challenges has become all the more critical in the current economic climate. According to the Higher Education Careers Services Unit (HECSU), the UK labour market is particularly complex, because it exists within a wider labour market that is affected by changes in both the UK and global economies.⁵ In particular, during times of economic austerity, companies do not always have the time, money or resources to spend on turning a graduate into a professional who is able to represent their interests effectively. This position, in turn, has a further knock-on effect for many graduates across a variety of industries and professions: they are no longer ‘just’ competing against other graduates from within the UK. Instead, they face competition for graduate jobs with people from other countries, as well as established professionals, who have perhaps been made redundant and have retrained, or moved industries, and have had to start at a lower level. Thus, not only are employers becoming increasingly concerned with who they recruit, they are able to be far more selective. This argument is borne out by research, indicating that the level of skills in demand by graduate employers is increasing, with managers, professionals and associated professionals anticipated to have the largest share of the employment market by 2022;⁶ and up to 2017, the major

4 Devonshire and Brailsford (n 3).

5 HECSU, ‘What Do Graduates Do? 2012’ (2012) <www.hecsu.ac.uk/assets/assets/documents/WDGD_Oct_2012.pdf> accessed 14 October 2015.

6 The 2012 CBI survey indicates that 6 per cent more businesses ‘expect to increase the number of jobs requiring leadership and management skills and higher skills in the next three to five years’ rather than to reduce them: CBI and Pearson (n 2) 7. The 2014 UK Commission for Employment and Skills (UKCES) notes polarisation of skills needs by 2022 in the UK and many other European Union countries: ‘demand for skills is likely to be concentrated in the high level occupations of managers, professionals, and associate professionals and in relatively lower skilled jobs among caring and leisure occupations’. UKCES, ‘The Labour Market Story – Skills for the Future’ (UK Commission for Employment and Skills 2014) Briefing Paper 11 <www.gov.uk/government/uploads/system/uploads/attachment_data/file/344441/The_Labour_Market_Story_-_Skills_for_the_Future.pdf> accessed 14 October 2015.

areas of job expansion are forecasted for managers, professionals, associate professionals and technical occupations.⁷ The CBI reports that, across the private sector as a whole, 52 per cent of employers do not feel confident there will be sufficient number of high-skilled people available to meet their needs over the next decade.⁸ The changing job market for graduates is illustrated by statistics. The HECSU's destination data shows that in 2012 only 54.2 per cent of law graduates were in employment, 29.1 per cent in further study, while 7.5 per cent reported to be unemployed six months after leaving university.⁹ The 2014 figures are similar (60.7 per cent, 27.5 per cent and 6.5 per cent respectively).¹⁰ While these statistics are likely to reflect the 2008–13 economic recession, the overall employment trend raises questions about whether law graduates possess the required professional skills necessary for employability; and, if so, how universities could address it.

Thus, we argue that there is not only a skills gap, there is also a developing 'professionalism gap', and universities and academics must play a part in filling it. We suggest that using varied types of assessment to develop students' employability and professional skills can contribute significantly to effectively filling this gap. It has been argued that:

the traditional exam is not the best way of assessing these skills, because it is limited both by time and by the resources students are able to consult [and] ... in a traditional exam it is difficult to assess if professional skills have been acquired in depth.¹¹

Therefore, even though in higher education the knowledge of law is still commonly assessed via written exams and coursework,¹² we question whether these types of assessment are the most suitable method to develop professional skills, such as the ability to communicate effectively or persuade in writing, or the ability to gather and integrate information from various legal sources.

7 CBI and Pearson (n 2) 10.

8 *ibid* 38–39.

9 HECSU, 'What Do Graduates Do? 2012' (n 5) 44.

10 HECSU, 'What Do Graduates Do? 2014' (2014) 33 <www.hecsu.ac.uk/assets/assets/documents/wdgd_september_2014.pdf> accessed 14 October 2015.

11 D Lopez and others, 'A Take-Home Exam to Assess Professional Skills' in *Proceedings of the 2011 Frontiers in Education Conference* (IEEE Computer Society 2011).

12 TA Downes, PR Hopkins and WM Rees, 'Methods of Assessment in British Law Schools' (1982) 16 *The Law Teacher* 77.

For the above reasons, this chapter considers an assessment method that could potentially go some way to doing this – take-home exams. Universities in Australia,¹³ Canada,¹⁴ Finland¹⁵ and Sweden¹⁶ use take-home exams as an assessment method on a regular basis. However, this type of assessment in UK universities is relatively uncommon.¹⁷ Taking a global view of assessment in legal education, this chapter looks at the use of take-home exams on LLB and LLM degrees in a variety of jurisdictions and analyses the application of such assessment in the context of UK higher education. It draws on the limited academic literature on take-home exams as an assessment method,¹⁸ the publicly available discussions in the blogosphere, as well as our own experience of take-home exams at Uppsala University (Sweden), Nottingham Law School and Buckinghamshire New University (Bucks) (the UK). When analysing the application of take-home exams in the UK context, the two core programs focused on in this chapter are the LLB and LLM courses delivered at Bucks. Besides looking at alignment to professional skills more generally, references are made to specific course and module learning outcomes, given that these were part of the constructive alignment process¹⁹ when take-home exams were introduced.

13 The University of Melbourne, 'LAWresources: Take-Home Exams' (9 May 2012) <www.law.unimelb.edu.au/lawresources/writing-for-assessment/take-home-exams> accessed 14 October 2015.

14 McGill University, 'University Examination Regulations' (November 2011) <www.mcgill.ca/students/exams/regulations> accessed 14 October 2015.

15 Åbo Akademi, 'Realizing Human Rights through Criminal Law: An Advanced Course' (August 2014) <www.abo.fi/fakultet/en/Content/Document/document/31244> accessed 14 October 2015. Login required.

16 See for example this document from Uppsala University, where take-home exams are mentioned on pages 18, 24 and 31: <www2.statsvet.uu.se/LinkClick.aspx?fileticket=%2FMNYAuiCEa0%3D&tabid=1321&language=en-US>; Örebro University, 'Course Syllabus RV4421: Comparative and Foreign Law' (30 August 2012) <lily.oru.se/studieinformation/VisaKursplan?kurskod=RV4421&termin=20131&sprak=en> accessed 14 October 2015.

17 The LSE runs an Executive LLM Master of Laws program, which is aimed at working professionals; all modules taken are assessed through a combination of essays and take-home exams: LSE, 'Executive LLM Master of Laws' (November 2014) <www.lse.ac.uk/collections/law/programmes/ellm/structure.htm> accessed 14 October 2015.

18 AS Freedman, 'The Take-Home Examination' (1968) 45 *Peabody Journal of Education* 343; SK Happel and MM Jennings, 'An Economic Analysis of Academic Dishonesty and Its Deterrence in Higher Education' (2008) 25 *Journal of Legal Studies Education* 183; A Hemming, 'Online Tests and Exams: Lower Standards or Improved Learning?' (2010) 44 *The Law Teacher* 283; MM Jennings, 'In Defense of the Sage on the Stage: Escaping from the "Sorcery" of Learning Styles and Helping Students Learn How to Learn' (2012) 29 *Journal of Legal Studies Education* 191; E Marchetti, 'Influence of Assessment in a Law Program on the Adoption of a Deep Approach to Learning' (1997) 15 *Journal of Professional Legal Education* 203; E Roe and E Vasta, 'Assessment in Higher Education: The Current Australian Scene' (1980) 5 *Assessment in Higher Education* 218; RL Weaver, 'Teaching (and Testing) Administrative Law' (1999) 38 *Brandeis Law Journal* 273; R Marsh, 'A Comparison of Take-Home Versus In-Class Exams' (1984) 78 *The Journal of Educational Research* 111.

19 J Biggs and C Tang, *Teaching for Quality Learning at University* (4th edn, Open University Press 2011).

Our research has revealed that up to this point there has been limited discussion on the advantages and disadvantages of take-home exams to assess legal knowledge and professional skills in the UK, in particular focusing on educating the future generations of professionals, who may choose legal or non-legal career paths. Having discussed the benefits and drawbacks of take-home exams, we conclude that – if designed carefully – take-home exams could be more widely used in the assessment mix of law degrees. We also note the lack of current pedagogic research on the topic and, as a result, recommend some directions for legal education assessment enquiries that could emerge globally within both an academic and practical context.

The types of assessments that develop professionalism

As outlined in the Introduction, the term ‘professionalism’ within the context of this chapter is used in its widest sense, encompassing the discipline-specific knowledge (i.e. knowledge of law), professional skills (lawyering skills, as well as other general employability skills),²⁰ and a set of professional values that underpin the first two attributes and continue to develop through one’s career and life.²¹ This means that it is not exclusively limited to the skills required for legal professionals, but relates to the different values and personal attributes that are essential for any type of professional career.²² The reason for taking this wide approach is because only 15 per cent of all law graduates pursue careers directly related to law after their undergraduate legal studies.²³ Others end up in business,

20 For an accepted employability skills model, see the CareerEDGE Model of Graduate Employability developed by Dacre-Pool and Sewell: L Dacre-Pool and P Sewell, ‘The Key to Employability: Developing a Practical Model of Graduate Employability’ (2007) 49 *Education and Training* 277.

21 E Martin and G Hess, ‘Developing a Skills and Professionalism Curriculum – Process and Product’ (2010) 41 *University of Toledo Law Review* 327, 329–330; A Colby and WM Sullivan, ‘Formation of Professionalism and Purpose: Perspectives from the Preparation for the Professions Program’ (2008) 5 *University of St Thomas Law Journal* 404.

22 E Dagilyte and P Coe, ‘Professionalism in Higher Education: Important Not Only for Lawyers’ (2014) 48 *The Law Teacher* 33.

23 HECSU, ‘What Do Graduates Do? 2012’ (n 5) 45. In the 2013–2015 HECSU reports, ‘legal professionals’ were integrated into the ‘legal, social and welfare professionals’ category, which equated to 28.8 per cent of all law graduates from 2014: HECSU, ‘What Do Graduates Do 2015’ (2015) <www.hecsu.ac.uk/assets/assets/documents/wdgd_2015.pdf> accessed 21 October 2015.

human resources or financial services,²⁴ or go on to further study, training or research (26.3 per cent)²⁵ before entering the job market.²⁶ Comparing these graduate statistics to those from 2013 and 2012, it appears that less law students are entering law-related careers after graduation than they have in the past.²⁷ Similarly, 21.3 per cent of 2012 law graduates entered the legal or social and welfare professions, 10.7 per cent went into business or finance, and 29.3 per cent went on to further study.²⁸ These varied options require a wide range of professional skills that can be useful in the workplace. As research shows, employers increasingly seek graduates that possess such skills as ‘the ability to manage ambiguous problems, tolerate uncertainty, and make decisions with limited information’,²⁹ monitoring and evaluating one’s own cognitive processes,³⁰ or personal, creative and emotional intelligence.³¹

How can these varied skills be developed? Surely, there is not one form of assessment that could improve *all* of these simultaneously. There are, indeed, many excellent types of assessments that are aimed at educating future professionals. Some are better suited to skills-based modules, while

24 12.7 per cent of the 2014 law graduates: HECSU, ‘What Do Graduates Do 2015’ (n 23) 29; 11.3 per cent of the 2013 law graduates: HECSU, ‘What Do Graduates Do? 2014’ (n 10) 33; and 10.7 per cent of the 2012 law graduates: HECSU, ‘What Do Graduates Do? 2013’ (2013) 33 <www.hecsu.ac.uk/assets/assets/documents/WDGD_Sept_2013.pdf> accessed 21 October 2015. Note that similar percentages of law graduates reported they were either in ‘retail, catering, waiting and bar staff’ or ‘clerical, secretarial and numerical clerk occupations’; however, it is not clear whether students choose these routes as a first option, or whether they work in these fields while continuing to look for more highly skilled options. The statistics are, however, worrying, and recently some have raised the problem of over-qualification in the UK graduate job market.

25 HECSU, ‘What Do Graduates Do 2015’ (n 23). Equivalently, 27.5 per cent of the 2013 law graduates: HECSU, ‘What Do Graduates Do? 2014’ (n 10) 33; 29.3 per cent of the 2012 law graduates: HECSU, ‘What Do Graduates Do? 2013’ (n 24) 33.

26 Prospects, ‘What Can I Do with My Degree? Law’ (March 2015) <www.prospects.ac.uk/options_law.htm> accessed 15 October 2015.

27 For instance, 25 per cent of law graduates from 2013 became legal, social and welfare professionals. 11.3 per cent entered business or finance-related roles and 27.5 per cent were undertaking further study: HECSU, ‘What Do Graduates Do? 2014’ (n 10) 33.

28 HECSU, ‘What Do Graduates Do? 2013’ (n 24) 33.

29 R Epstein and E Hundert, ‘Defining and Assessing Professional Competence’ (2002) 287 *Journal of the American Medical Association* 226, 227.

30 J Winterton, F Delamare-Le Deist and E Stringfellow, ‘Typology of Knowledge, Skills and Competences: Clarification of the Concept and Prototype’ (Office for Official Publications of the European Communities 2006) 16 <www.uk.ecorys.com/europeaninventory/publications/method/cedefop_typology.pdf> accessed 13 October 2013.

31 H Gardner, *Frames of Mind: The Theory of Multiple Intelligences* (3rd edn, Basic Books 2011); R Harden and others, ‘AMEE Guide No. 14: Outcome-Based Education: Part 5 – From Competency to Meta-Competency: A Model for the Specification of Learning Outcomes’ (1999) 21 *Medical Teacher* 546, 546.

others are more appropriate in substantive law modules: the approaches to assessment depend on the nature of skills, knowledge and attitudes being developed. For example, weekly summative assessment of students' seminar contribution and participation encourages students to engage more fully with the subject matter, and, if properly facilitated by tutors, enables all students to contribute to discussion and analysis of legal problems. It also allows students to develop independent thinking, expressing ideas in a logical manner and the ability to find solutions to the legal problems that were set in advance. Other types of assessment we have used in the past on our LLB and LLM programs include group-based legal advice exhibitions (developing the professional skill of working in a team); drafting case notes; legal blog-writing; critical self and peer reflections on activities designed to develop professionalism (e.g. negotiation master classes, advanced research, networking and impact sessions, assessment centre simulators and managing online profiles); CV writing (tailored to two different job applications); an extended essay (legal research and critical thinking development) and an oral exam (viva); and reflective professional development plans, skills audits and skills action plans.³² Combinations of these methods of assessment were commended during periodic reviews at both Bucks and Aston University.³³ The panels consisted of members from other higher education institutions and local legal practitioners (industry).

Next to these less-conventional methods of assessment, there are, of course, the traditional exams and coursework (essays or problem-based questions), which test the future professionals' ability to memorise, think under pressure, undertake legal research and write in a logical and coherent manner, with the aim of giving legal advice to a fictional client. Simply teaching the prescribed content(s) and assessing them via traditional means can come at the expense of a crucial legal skill: problem

32 For comparison of traditional and innovative assessments in legal studies, see A Atkinson-Payne and E Dagilyte, 'Old Gives Way to New: Enhancing Student Employability through the Use of Innovative Assessment Methods' (2015) <www.lawteacher.ac.uk/events.asp#> accessed 12 October 2015. On oral exams as assessment, see NA Armstrong, "'Tell Me More about That ...': Using an Oral Exam as a Final Assessment Tool' (2006) 25 *Legal Reference Services Quarterly* 117. On using oral exams in the European Human Rights module, see L Mosesson, 'Using Oral Examinations in Place of Written Ones on Law Degrees' (2011), paper given at the Association of Law Teachers Conference, on file with the authors.

33 Aston University's law programs periodic review took place in 2015, whereas Buckinghamshire New University's occurred in 2014. Quality Assurance Agency for Higher Education (QAA), 'Higher Education Review' (2015) <www.qaa.ac.uk/en/reviewing-higher-education/types-of-review> accessed 18 July 2019.

solving.³⁴ Hence, it is important that problem-based questions, which are often used as a method of active learning in legal education, and are positively viewed by law students,³⁵ are included in exams or assignments. However, as some commentators note, assessing *all* modules with *only* traditional exams and coursework can hinder not only legal careers, but also academic careers in law teaching.³⁶

I'm a student, aspiring prof, and three-hour law exams are threatening to ruin my career. The purpose of a law exam should not be to assess who will [be] the quickest litigator for a big firm. Many law students ... do not aspire to be litigators at big firms. At my law school, one does not need good grades to be a litigator at a big firm, but you need good grades to do things like teaching ... Neither of those call on the 'skills' 3–4-hour law exams do. I am in favour of the 24-hr page-limited exam. It actually tests a skill necessary for lawyering: concision.

How then are take-home exams different from the traditional closed and open-book exams and assignments, and from other non-traditional methods of assessment?

Take-home exams: What's on offer?

It is clear from the previous section that a multitude of different assessments exist that can be used to develop professionalism. How, then, do take-home exams contribute to students' professional skills and what, in this context, do they offer that other forms of assessment do not? It is apparent from the literature that we surveyed and it is evident from current practice in higher education that there are different types of take-home exams, or take-home assessments. They mostly work in the following way: first, the assessment task is announced to students; second, students are given a set time limit (typically 24 or 48 hours, or a number of days) in which to research, write and submit their answer; finally, student submissions are marked and feedback is provided.

34 R Havelock, 'Law Studies and Active Learning: Friends Not Foes?' (2013) 47 *The Law Teacher* 382, 401–402.

35 *ibid* 384.

36 See comment by Monica (13 February 2007) on D Solove, 'Examining Law School Exams' <http://concurringopinions.com/archives/2006/05/law_school_exam.html> accessed 14 October 2015 (this blogpost has been archived at <https://archive.org/details/perma_cc_TZD8-LA29> accessed 15 July 2019, but is currently experiencing technical difficulties). 'Teaching by memorising' is also outdated: F Cownie, 'Twining, Teachers of Law and Law Teaching' (2011) 18 *International Journal of the Legal Profession* 121, 127.

At Bucks, submissions and marking were processed online via Grademark/Turnitin, a software program integrated in to the Blackboard VLE interface. Take-home exams were piloted in 2014–15 for first-year LLB students in the English Legal System module, and for LLM students in Public International Law and EU Competition Law modules. Students had to submit their answers within 24 hours. As a first attempt, the assessment was due to be uploaded at 14:00 on the stated date, but for the modules that were run in the second semester the time was changed to 08:00. As we explain below, this change was implemented in order to avoid students ‘burning out’ during university assessment periods, as well as to better replicate a typical working day/professional environment post-graduation.

To provide an assessment of the efficacy of take-home exams for developing professional skills, the remaining sections of this chapter investigate the potential difficulties that this type of assessment can pose for lecturers and students.

Advantages

One of the main advantages of take-home exams is that they more closely resemble the actual practice of law and its working environment. In fast-paced professional careers, employers value an employee who is able to give, for instance, legal advice to clients in an efficient way. This encourages clients to come back (i.e. generates further business), especially if their interests are protected effectively. It also saves partners’ time, enabling them to focus on business development and costs efficiency. Therefore, by setting a task that has to be performed within the 24-hour period, take-home exams replicate these working environments, and prepare students for careers after graduation that can extend beyond the legal profession.

At the same time, take-home exams aim to assess and develop many other skills that are essential for any professional. First, personal and professional integrity is tested through compliance with ethical behaviour in an academic environment. Again, taking the legal profession as an example, integrity, honesty and trust are fundamental attributes and behaviours associated with the practice of law. Thus, there is a direct correlation with rules on academic misconduct and why being found guilty of plagiarism, as an academic offence, can prevent a current law student from pursuing a professional legal career. If we view the legal profession from this perspective, higher education should challenge students in various ways

(including assessment) to foster integrity and other ethical behaviours, before sending them into the professional world. Thus, honesty is a professional trait that is tested by take-home exams.

Second, time management skills are vital. Just because take-home exams contain the word ‘home’, it does not mean that the work needs to be done at home: it is important to warn students in advance about their options of working environments (e.g. university library versus home space), as well as the potential difficulties they may face (e.g. failure of a computer at home does not justify non-submission; using a university computer may be to students’ benefit in such cases). Next to this, students are required to plan in advance how they will spend the allotted time: how long will be spent working and how long for sleeping, eating or family/leisure/exercise time. This type of time management also requires students to make arrangements for other responsibilities, such as child care, and to organise other tasks. For example, arranging meals beforehand (have they restocked the fridge?), or to rest the day before the exam day (sleeping, spending time outdoors). In professional life, time management skills are also vital to maintaining a healthy work–life balance – which is essential for graduates’ long-term wellbeing.

Third, take-home exams help develop IT skills. Even though it is widely assumed that the ‘Google generation’ or ‘digital natives’ are good with technology, research shows that many university entrants do not have essential text and data processing software or digital research skills,³⁷ including – as our experience shows – how to insert comments and track changes in a Word document, or to use keyboard shortcuts. All of these skills are important when writing an answer within strict time constraints. Future lawyers, without any doubt, will have to be expert technologists;³⁸ this means that law students will need to develop new technological skills if they are to be successful professionals.³⁹ Today, this includes not only the advanced keyword e-searching, but also ‘big data’ analytics and the computer-guided predictive coding (or technology-

37 D Bates, ‘Are “Digital Natives” Equipped to Conquer the Legal Landscape?’ (2013) 13 *Legal Information Management* 172; JISC, ‘Information Behaviour of the Researcher of the Future’ (UCL 2008) CIBER Briefing Paper <www.jisc.ac.uk/media/documents/programmes/reppres/gg_final_keynote_11012008.pdf> accessed 30 August 2015. For the lack of digital research skills, ‘digital natives’ have even been branded as ‘digital refugees’: B Coombes, ‘Generation Y: Are They Really Digital Natives or More like Digital Refugees?’ (2009) 7 *Synergy* 31.

38 R Susskind, *Tomorrow’s Lawyers: An Introduction to Your Future* (OUP 2013).

39 MR Pistone, ‘Law Schools and Technology: Where We Are and Where We Are Heading’ (2015) 64 *Journal of Legal Education* 586, 589–591.

assisted review).⁴⁰ In the UK, the British and Irish Association of Law Librarians' (BIALL) Legal Information Literacy Statement⁴¹ submitted to the Legal Education and Training Review (LETR) – the largest review of UK legal education and training since the 1971 Ormrod Report⁴² – was adopted as recommendatory guidance for digital literacy.⁴³ It especially emphasises the need to develop digital research skills (which could be done via take-home exams). Unfortunately, a JISC/British Library study found that today's university entrants are nowhere near the required IT proficiency level: they may be familiar with some basic searching tools, but this does not equate to information literacy required today.⁴⁴

Fourth, take-home exams are the chosen assessment method in some advanced legal research modules, because they directly examine 'the ability of the student to perform actual research',⁴⁵ which, in this context, is the ultimate learning outcome. In other types of modules, research skills may attract less focus, but it remains one of the key competencies that is expected from any law graduate or trainee lawyer, and which is currently not sufficiently developed in legal higher education.⁴⁶ It is, of course, important for students to manage expectations on how long research might take, and learn how to research more efficiently. In fact, there is no need for students to wait until they have to undertake a take-home exam to improve their research skills: if they had been preparing during the whole teaching period, and had done all the required reading and made useful and extensive notes, building on that preparation should be much easier when students are faced with take-home exam tasks.

To summarise, take-home exams – as an assessment method – can be useful in modules where learning outcomes are not related just to substantive knowledge of law, but also professional integrity and ethics, time-management, digital literacy and legal research skills. At Bucks, these were embedded into the module and program learning outcomes. The University's LLB Programme Handbook aims to equip students 'with

40 *ibid* 590.

41 BIALl, 'Legal Information Literacy Statement' (BIALl 2012) <<https://biall.org.uk/careers/biall-legal-information-literacy-statement/>> accessed 18 July 2019.

42 H Arthurs, 'The Ormrod Report: A Canadian Reaction' (1971) 34 *Modern Law Review* 642.

43 J Webb and others, 'Setting Standards. The Future of Legal Services Education and Training Regulation in England and Wales' (SRA, BSB, IPS 2013) paras 2.100, 4.74, 7.15.

44 Bates (n 37) 176.

45 Some observations have been made about take-home exams in advanced legal research (ALR) modules in the USA, which often ask students to address a certain legal research problem: CA Knott, 'On Teaching Advanced Legal Research' (2009) 28 *Legal Reference Services Quarterly* 101, 116.

46 See LETR Recommendations 6 and 11 and paras 2.99–2.104 in Webb and others (n 43).

the skills, competencies and knowledge-base to enable them to commence graduate careers in the legal profession, in business, and in areas such as accountancy, financial regulation, insurance, government service, and the criminal justice system'. They refer to 'employment-ready graduates with professional and ethical approaches to their chosen career or study' who have 'the skills, knowledge and values necessary for life-long personal development'. These aims clearly communicate an overall degree focus on professional careers. Accordingly, the LLB program outcomes highlight many practical employment-related skills discussed above, including producing 'documents using software appropriate to the requirements of a particular task or audience'; understanding ethics and professionalism; and working to deadlines and managing one's workload. In terms of transferable skills, the LLB program outcomes mention effective communication in writing, reflective learning and personal development. These are reflected in the first-year English Legal System module, where take-home exams were introduced, in particular focusing on legal writing and independent working from the overall skills matrix.

The Bucks LLM focuses on higher-level research and writing skills. The program outcomes mention 'critical understanding of areas of contemporary research and scholarship' and students' ability to 'synthesise materials derived from diverse legal sources'. Hence, the students who completed the EU Competition Law module were expected to 'demonstrate an ability to undertake standard paper and electronic research and synthesise the fruits of that research in applying it critically to specific issues' and to 'present clear, coherent and compelling arguments on complex issues'.

In order to test the abovementioned skills effectively via take-home exams – and to promote learners' development – there may be some challenges to which we turn in the next section.

Potential problems

One of the main concerns for take-home exams is academic misconduct (cheating/plagiarism/collusion). The longer the set period of time, the more likely it is that dishonest students could purchase tailor-made work and submit it as their own, or seek help from someone else (externally or internally). We believe, however, that the likelihood of academic misconduct can be reduced in a number of ways, making take-home exams no more prone to this than other types of assessments. Thus, electronic submission of completed work can help students to identify any

possibilities for academic misconduct and address them before submission (Turnitin OriginalityCheck). When designing the assessment, it would be wise not to extend the deadline for too long, thus opting for 24- or 48-hour or shorter time limits – rather than days or weeks – to complete the work. Setting a problem scenario rather than an essay question could also reduce the opportunity for students to purchase work and, at the same time, allow students to demonstrate problem-solving skills. Asking students to include a short self-reflection on how they found the task (e.g. 500 words) could also indicate whether the ‘answer text’ and the ‘reflection text’ were written by the same person; if not, a follow-up viva could help clarify why these may be different. Finally, a take-home exam could be designed to match the working environment where multiple smaller tasks are revealed within the set time period; for example, instead of one task, a tutor could drop in smaller tasks as the time goes, in this way making time periods for each smaller task even shorter than the overall assessment period, in effect minimising the risk of academic misconduct. At Bucks, where take-home exams were piloted in three modules on the LLB and LLM degrees, no students were found to have engaged in academic misconduct. This reflects a US study from the 1980s, which found no evidence of ‘rampant cheating’ during take-home exams; indicating that the fears of increased academic misconduct may be unfounded,⁴⁷ or at least no worse than other types of exams.

A second concern about using take-home exams is that they can be time-consuming and exhausting; many students, if given, for example, 8 or 24 hours to complete an exam, would use the full 8 or 24 hours, and would be tired for the rest of that day and/or the next day.⁴⁸ Research indicates that students spend ‘significantly more time on the take-home exam than on either the open book or closed book exam’.⁴⁹ At Bucks, when the submission time was set for 14:00 for both LLB and LLM, we found that students would work throughout the night. Engaging in all-night study would mean that they would have less energy, and poorer sleep patterns, in order to revise for further forthcoming assessments; this had a negative knock-on effect on their performance. For the above reasons, in the second semester, the online submission time was changed

47 LJ Weber, JK McBee and JE Krebs, ‘Take Home Tests: An Experimental Study’ (1983) 18 *Research in Higher Education* 473.

48 See the example of Nottingham Law School, discussed below under ‘Students’ views’.

49 Weber, McBee and Krebs (n 47) 480; Freedman reports up to 6–8 hours for one question: Freedman (n 18) 344.

to 08:00 for both LLB and LLM modules, and take-home exams were scheduled as the last assessment in the May exam period. While one may argue that this may not change student behaviour, as they may still have an option to work through the night, the experience showed that students woke up earlier and were more productive in the morning, as compared to starting work on the take-home exam task in the afternoon. The amended deadline also allowed students to leave some time aside for sleep and final proofreading early in the morning before submission. Consequently, this adjustment of the deadline seems to have produced better academic results and amounted to less exhausting university assessment periods for students.

A more important adjustment with regard to timing was related to spacing out assessment deadlines on courses during the end-of-semester assessment periods. At Bucks, the tutors noticed that take-home exams took a lot of energy from students to complete. Hence instead of placing the take-home exam as the first assessment, it was moved to the end of the assessment week on the LLM. This had a positive impact on students' wellbeing and, as a result, on their physical ability to better tackle assessments in other modules.

In addition to the above time-management design considerations, from the beginning of the module Bucks students were provided with guidance on how to prepare for take-home exams (Appendix I), which was reinforced during weekly contact time with tutors. This required coordination amongst other assessed subjects and the involvement of course leaders and the whole teaching team. At Bucks, tutors also worked with students before the take-home exams took place, in order to develop time-management and organisational skills. For instance, mock take-home exams were arranged two weeks prior to the summative assessment. In respect of English Legal System (a Level 4 module), the summative assessment requires students to answer a number of set questions during the 24-hour period. To help students prepare, they are required to complete similar formative questions via the same submission method (Grademark/Turnitin), for which feedback is given in advance of the summative assessment.⁵⁰ Another way of preventing exhaustion and increasing the likelihood that student answers will be as focused and concise as

50 Providing plenty of different advance opportunities for students to practise the skills/knowledge that will be assessed is at the core of the assessment for learning (AFL) agenda: L McDowell, K Sambell and C Montgomery, *Assessment for Learning in Higher Education* (Routledge 2012) 49–70; D Carless, *Excellence in University Assessment: Learning from Award-Winning Practice* (Routledge 2015) 77–106.

possible is setting word/page limits. Such ‘limitations’ are ‘essential to easing student anxiety’.⁵¹ If – notwithstanding our recommendations on avoiding academic misconduct – take-home exams are designed to last for more than two days, it would be advisable to produce a clear guide on possible time-planning,⁵² in order to manage student anxiety and expectations; this could be similar to the one used by Melbourne Law School (see Appendix II).⁵³

A third challenge for take-home exams is how to accommodate students with disabilities, and those with family or caring responsibilities. One of the options would be to arrange designated locations at the university (e.g. a study room in a library), to which students could gain access during the whole period of assessment, as well as to employ the usual exam-sitting accommodations that help students with learning/reading disabilities (e.g. longer assessment time). This relates to wider assessment environment concerns, which may necessitate the need to work more closely with relevant library staff or other colleagues, in order to ensure that students are able to undertake the exam (e.g. the library should be suitably equipped and able to provide appropriate ‘exam conditions’).

For those students who have family or caring responsibilities, their availability for the assessment can be reduced if they have to look after their children or dependents. Thus, it is important to manage student expectations in advance, warning them about possible adjustments that need to be planned (e.g. arranging child care) for the period of the respective take-home exam. This is another reason why we would not recommend assessment periods that exceed 48 consecutive hours: an exam period in excess of this may disadvantage students with disabilities, child care or other caring responsibilities.⁵⁴

51 Comment by Howard Wasserman on L Fairfax, ‘The Take Away about Take Home Exams’ *Concurring Opinions* (4 February 2010) <<http://concurringopinions.com/archives/2010/02/the-take-away-about-take-home-exams.html>> accessed 12 October 2015 (this blogpost has been archived at <https://archive.org/details/perma_cc_TZD8-LA29> accessed 15 July 2019, but is currently experiencing technical difficulties).

52 Jennings also notes that explaining assessment format well in advance is helpful for all categories/types of learners: Jennings (n 18) 209.

53 Melbourne Law School, ‘Writing for Assessment in Law. Take-Home Exams: Exam Management’ <www.law.unimelb.edu.au/lawresources/writing-for-assessment/take-home-exams/exam-management> accessed 12 October 2015.

54 For example, in McGill (Canada) take-home exams last for three hours: McGill University (n 14).

Take-home exams lasting longer than 48 hours may still be achievable and appropriate if the overall assessment time is split into smaller periods with separate tasks (e.g. four tasks of 6 hours each). Dropping in these tasks periodically, and at the same time setting time 'breaks', could not only help to address time availability of some students, but also to reduce the opportunity for academic misconduct and impose specifically designed rest periods. However, imposing such rigorous assessment time allocations may reduce the biggest benefit of take-home exams, which is to replicate the professional working environment, where such 'mandatory breaks' are not always formally imposed or realistic options. At Bucks, student assessment expectations about take-home exams were managed on a weekly basis from the start of the three modules, in conjunction with the take-home exams guide (Appendix I). Therefore, in our experience at Bucks, during the assessment, students with disabilities or child-care/caring responsibilities did not face difficulties: many treated the 24-hour assessment as an extended exam that required their full attention throughout that period. Consequently, they made arrangements in advance to cover these responsibilities.

International students are another type of learner who may face difficulties sitting a take-home exam – in particular when it comes to their research skills and critical thinking training, which may not have been developed in their respective education systems, where memorising and repeating the given information (the didactic method)⁵⁵ is the 'mainstream' pedagogy, to the same extent as UK students. Thus, tutors employing take-home exams need to ensure that enough skills-based training is in place, and has been undertaken by students before this assessment takes place. It is important to ensure that students have understood *why* they are assessed in this way and *how* it works. Once again, as Bucks experience shows, a mock exam could be a useful way to communicate these messages, as well as for students to test their ability to cope with the difficulties and stress that take-home exams entail.

Fifth, there may be technological challenges that students need to account for: for instance, computer hard drives can crash before documents are saved and internet connections can be temperamental. As mentioned above, the risk of losing work due to such reasons could be reduced if students were advised in advance to work from their university, given that

55 RW Paul and others, 'Thinking Critically about Teaching: From Didactic to Critical Teaching', *Critical Thinking Handbook: 4th–6th Grades* (Foundation for Critical Thinking 1990).

most universities have sufficient resources and spaces for assessments (or if there is a designated room for take-home exams during the required time period). We found that Bucks LLB and LLM students adopted different approaches to managing learning technology, with many opting to use university library spaces during the 24-hour period. Given the small cohorts on the three take-home exam modules, it was not necessary for the teaching team to book separate rooms for take-home exams and – as part of the university’s policy – the students had an option to reserve library study spaces if they wished.

In addition to the above, there is a risk of the engaged students learning so much about the subject that they end up knowing more than the tutor who set the question. However, we do not see this as a disadvantage of take-home exams. Quite to the contrary: while some tutors may feel intimidated or less authoritative if a student knows more, surely this is a positive side of empowerment via learning, through which not only the student but also the tutor push the boundaries of knowledge. Our Bucks experience did not highlight this as a concern either at undergraduate or postgraduate levels.

Finally, an argument could be made that take-home exams may not result in different student performance, as compared to in-class exams,⁵⁶ making it pointless to innovate when it comes to assessment methods. However, as explained above, being assessed in this way has benefits that in-class exams do not have: not only are students able to improve time management and research skills, but they can ‘experience’ what a professional working environment may be like after graduation (particularly as employers are increasingly enabling and encouraging their employees to work remotely and from home). Furthermore, we did not find any research data (in particular – no longitudinal studies) on law assessment that would lead to a conclusion that take-home exams do not result in better student performance in the first place: only further research could demonstrate whether this may indeed be the case. Limited research in other subject fields indicates that take-home assessments help students score higher on knowledge; and this type of assessment is perceived by students to cause less anxiety than in-class exams.⁵⁷

56 Solove (n 36). Note that a study published in 1984 found that the results were better in in-class assessment; students studied harder for an in-class exam, which naturally resulted in greater learning; Marsh (n 18).

57 Weber, McBee and Krebs (n 47). On the link between assessments and student stress, see A Shirom, ‘Students’ Stress’ (1986) 15 *Higher Education* 667.

Students' views

We had experienced being assessed via take-home exams before introducing them at Bucks; one experience was from Uppsala University (Sweden), while the other was from Nottingham Law School (UK). In the Swedish legal higher education scenario, students were given two days to submit an essay-type answer to a given question. This was a postgraduate-level course, with a high proportion of European (Erasmus+) students; the course was taught in English. Unfortunately, there was no university critical writing skills support available for students or a guide on how best to tackle take-home exams. Students were required to complete the prescribed question in light of independent reading and research, and to submit their answer via email by midday on a given date. This design of take-home exams bears more similarity to an intensive assignment, rather than an exam. As noted by a UK student who experienced take-home exams in the Uppsala Law Department,⁵⁸

[a] problem for me was that I was used to approaching assignments over a period of time, and it was hard for me to let go of the level of quality I would want in that to submit something within a far shorter time-scale. However, as long as you bear the difference in mind and don't get picky about detail you can't realistically research or include within the time, it is possible to adapt your approach to tackle these new exams.

At Bucks, students did ask in advance how the 24-hour take-home exam should be treated: as an exam, or as coursework. Tutors explained to the students that it was a combination of both, giving precise advice on how to prepare for such an assessment at the beginning of the module (see Appendix I). The decision to limit the assessment period to 24 hours was motivated by the possible shortcomings of take-home exams examined above, with the written output capped by a word limit.⁵⁹ This was to ensure that students wrote concisely, in their own words, and avoided copying large parts of text from online or library materials. This approach is supported by literature: Grimmelman indicates that '24-hour exams with strict ... *word or page limits* [are] the most humane

58 jennifer@uppsala, 'Academics – the Courses I've Taken throughout My Time in Uppsala' <glasgowuniversityabroad1112.wordpress.com/2012/03/20/academics-the-courses-ive-taken-throughout-my-time-in-uppsala/> accessed 14 October 2015. This is now a closed blog, with a link on the page to the owner to request permission to read.

59 At Bucks, a 3,500-word limit was used for LLM modules of Public International Law and EU Competition Law.

examination system, followed by scheduled closed-book exams, then by scheduled open-book exams'.⁶⁰ Freeman indicates that students 'enjoy this type of examination ... feel that learning is a pleasure ... [and] ... they are able to organise themselves more adequately for an attack on their notes and textbooks'.⁶¹

The Nottingham Law School take-home exam experience was very different from Uppsala and Bucks. This exam took place on the Bar Vocational Course – a postgraduate professional vocational qualification to train students for a career as barristers (now known as the Bar Professional Training Course, or BPTC). As part of an Advanced Legal Research module, students were required to undertake an extensive piece of complex legal research over a period of 10 days. They had to come to the answer using both paper and electronic resources and document their precise research trail. Students were not permitted to consult each other, but were allowed to work at home and in the Law School's libraries.

A mock exam was undertaken by all students prior to the 'real' exam. The mock was relatively straightforward. For instance, it took around four days to complete. However, the mock exam did not reflect the actual exam, which took the full 10-day period and was significantly more complex. The inconsistency between the mock and real exam complexity meant that a number of students either struggled or failed to complete the research in the allotted time, as they had based their organisation and time management on their experience of the mock exam.

Based on this experience, it is imperative that any mock take-home exams reflect the complexity and expected completion time of the real exam, otherwise it defeats the object of sitting a mock, as it does not adequately and inclusively prepare students for the 'real thing'. This can be particularly problematic for international students, or students with caring responsibilities who, for the reasons discussed above, may need to be more acutely aware of time management requirements.

60 Comment by James Grimmelman (8 May 2006) on Solove (n 36).

61 Freedman (n 18) 343.

Notably, student experience of any type of assessment may depend on what type of learners they are, or what learning style they have.⁶² For example, Jennings observes that active experimentation (AE) learners,⁶³ who practice learning by doing (including active seminar participation, research and critical writing), could feel more comfortable with take-home exams:⁶⁴

When the AEers have a research paper to do, they will plough into the task with a rough draft and keep working through drafts until they reach perfection. The fact that their research is not done when they begin writing is not a problem for an AE learner. The AE learner will continue research as he or she writes and discovers what is needed in the drafts. Take-home exams are AE favourites, along with any tasks outside of class that require them to undertake application exercises.

Given that each student will have their own distinct learning style, not only teaching but also assessment strategies and tools must be designed to accommodate these and to enable students to show what they learned; that is, what they really know and are able to do, as opposed to how well they can take tests.⁶⁵ This argument is supported by Canick, who advocates the use of ‘a variety of available assessment tools’⁶⁶ when it comes to measuring students’ legal research abilities. It has been noted that an overuse of one form of assessment over another limits student learning, and this imbalance has a detrimental effect on learning;⁶⁷ thus there is a need to diversify assessment.⁶⁸ Consequently, in legal higher education, take-home exams could be introduced as an additional assessment option

62 One definition of learning style is ‘the way each individual begins to concentrate on, process, internalise, and remember new and difficult academic information or skills’: Jennings (n 18) 195. Jennings also provides a useful critical outlook on the extensive research of learning-style preferences, theories, classifications and differences based on one’s gender, role in the immediate family, or the discipline being studied: *ibid* 195–201. On law students’ learning styles and appropriate teaching strategies, see MHS Jacobson, ‘Primer on Learning Styles: Reaching Every Student’ (2001) 25 *Seattle University Law Review* 139.

63 This is one of the four stages of Kolb’s Learning Cycle: DA Kolb, *Experiential Learning: Experience as the Source of Learning and Development* (Pearson 2014).

64 Jennings (n 18) 204.

65 A Leithner, ‘Do Student Learning Styles Translate to Different “Testing Styles?”’ (2011) 7 *Journal of Political Science Education* 416.

66 S Canick, ‘Legal Research Assessment’ (2009) 28 *Legal Reference Services Quarterly* 201, 215.

67 M Bennett, ‘Assessment to Promote Learning’ (2000) 34 *The Law Teacher* 167, 1.

68 A Bone and K Hinett, ‘Diversifying Assessment and Developing Judgement in Legal Education’ in R Burridge and others (eds), *Effective Learning and Teaching in Law* (Routledge, Taylor & Francis 2003).

that could test all constituent aspects of professionalism: knowledge, skills and attitudes. This is supported by comments from students in relation to their performance, especially when compared to traditional exams:⁶⁹

I did significantly better on take-home exams ... For me, a take home allowed me to craft an outline, revise that outline, draft an answer, and revise my answer. I didn't have enough time to do that with in-class exams, and my performance suffered.

The above is further reflected in the findings of Freedman, who notes that even mediocre students can excel in take-home exams, because they help develop 'a new attitude towards learning, one which incorporates motivation or desire for knowledge along with the innate ability or intelligence of the individual'.⁷⁰ Ultimately, one could argue, this is the core of transformational education and active learning.

Conclusion

There is no doubt that take-home exams are not the easiest assessment option, for both students and lecturers. As set out above, there are numerous factors that must be taken into consideration when planning to set such an exam, or, as a student, when preparing to undertake one. As the Bucks experience on both the LLB and LLM programs show, the key is to set up the take-home exam task in a way that teaches the skills that the program aims to develop, allowing students to demonstrate these skills in the most effective ways. There is a lot to be said about managing student expectations and anxiety regarding the challenges this particular type of assessment may bring, especially when it comes to time management. Hence, we do not recommend using an afternoon deadline for a 24-hour take-home exam submission and would advise scheduling take-home exam deadlines at the end of main assessment periods when many other assessments are finished.

We hope that this contribution has animated the potential that take-home exams have to not only assess, but to develop professionalism within graduates from a multitude of disciplines. Clearly, the process of preparing for a take-home exam, and the assessment itself, can act as a catalyst, or trigger, for the application and employment of professional

69 Comment by Colin Crowe (7 February 2010) on Fairfax (n 51).

70 Freedman (n 18) 344.

skills, behaviours, values and attributes. Ultimately, embedding such development in to curricula promotes the employability of students, and contributes to transforming them from undergraduates or postgraduates into ‘employment-ready’ graduates. As such, take-home exams, as a method of summative assessment, demonstrate that the development of professional skills is not just ‘the province of formative assessment’.⁷¹ If set up correctly – to enable student learning – this form of assessment also helps address the skills gap that was identified by the UK’s 2014 Legal Education Training Review.

Given the scarcity of literature on take-home exams in general, and in legal studies in particular, it is important that this large research gap is addressed. We believe that the following directions for research on this type of assessment, which could be conducted nationally or, preferably, on a multi-jurisdictional basis, will help to fill this gap within both an academic and professional context. First, it would be useful to collect qualitative data on how law students find this type of assessment, especially in comparison to the traditional open-book or closed-book exams. Possible questions could include time management, wellbeing (e.g. stress and anxiety levels), take-home exam question ‘opening time’, and difficulties faced by students with disabilities, international students or those with child-care/caring responsibilities. A second aspect where research is required relates directly to the employability agenda in higher education: what do employers – and in particular employers of law graduates – think about take-home exams? Do they view this type of assessment as being as rigorous as traditional exams? If yes/no – would it matter, especially in the context of liberal legal education?⁷² Finally, there may be a lot to learn from colleagues who use take-home exams for law assessment in other jurisdictions: there is the potential for international collaborative research that could help understand the advantages and disadvantages of take-home exams, some of which have been highlighted in this chapter.

71 Devonshire and Brailsford (n 3) 9.

72 B Hepple, ‘The Renewal of the Liberal Law Degree’ (1996) 55 *The Cambridge Law Journal* 470; A Bradney, *Conversations, Choices and Chances: The Liberal Law School in the Twenty-First Century* (Hart 2003).

References

- Akademi A, 'Realizing Human Rights through Criminal Law: An Advanced Course' (August 2014) <www.abo.fi/fakultet/en/Content/Document/document/31244> accessed 14 October 2015.
- Armstrong N, "'Tell Me More about That ...': Using an Oral Exam as a Final Assessment Tool' (2006) 25 *Legal Reference Services Quarterly* 117.
- Arthurs H, 'The Ormrod Report: A Canadian Reaction' (1971) 34 *Modern Law Review* 642.
- Atkinson-Payne A and Dagilyte E, 'Old Gives Way to New: Enhancing Student Employability through the Use of Innovative Assessment Methods' (2015) <www.lawteacher.ac.uk/events.asp#> accessed 12 October 2015.
- Bates D, 'Are "Digital Natives" Equipped to Conquer the Legal Landscape?' (2013) 13 *Legal Information Management* 172. doi.org/10.1017/S1472669613000418.
- Bennett M, 'Assessment to Promote Learning' (2000) 34 *The Law Teacher* 167. doi.org/10.1080/03069400.2000.9993054.
- BIALL, 'Legal Information Literacy Statement' (BIALL 2012) <<https://biall.org.uk/careers/biall-legal-information-literacy-statement/>> accessed 18 July 2019.
- Biggs J and Tang C, *Teaching for Quality Learning at University* (4th edn, Open University Press 2011).
- Bone A and Hinett K, 'Diversifying Assessment and Developing Judgement in Legal Education' in R BurrIDGE and others (eds), *Effective Learning and Teaching in Law* (Routledge, Taylor & Francis 2003).
- Bradney A, *Conversations, Choices and Chances: The Liberal Law School in the Twenty-First Century* (Hart 2003).
- Canick S, 'Legal Research Assessment' (2009) 28 *Legal Reference Services Quarterly* 201.
- Carless D, *Excellence in University Assessment: Learning from Award-Winning Practice* (Routledge 2015).
- CBI and Pearson, 'Learning to Grow: What Employers Need from Education and Skills. Education and Skills Survey' (2012) <www.bl.uk/collection-items/learning-to-grow-what-employers-need-from-education-and-skills-education-and-skills-survey-2012> accessed 15 July 2019.

- Chartered Institute of Personnel and Development, 'Over-Qualification and Skills Mismatch in the Graduate Labour Market' (2015) <www.cipd.co.uk/binaries/over-qualification-and-skills-mismatch-graduate-labour-market.pdf> accessed 21 October 2015.
- Colby A and Sullivan W, 'Formation of Professionalism and Purpose: Perspectives from the Preparation for the Professions Program' (2008) 5 *University of St Thomas Law Journal* 404.
- Coombes B, 'Generation Y: Are They Really Digital Natives or More like Digital Refugees?' (2009) 7 *Synergy* 31.
- Cownie F, 'Twining, Teachers of Law and Law Teaching' (2011) 18 *International Journal of the Legal Profession* 121. doi.org/10.1080/09695958.2011.619855.
- Dacre-Pool L and Sewell P, 'The Key to Employability: Developing a Practical Model of Graduate Employability' (2007) 49 *Education and Training* 277. doi.org/10.1108/00400910710754435.
- Dagilyte E and Coe P, 'Professionalism in Higher Education: Important Not Only for Lawyers' (2014) 48 *The Law Teacher* 33. doi.org/10.1080/03069400.2013.875303.
- Devonshire P and Brailsford I, 'Re-Defining Learning Outcomes: A Case for the Assessment of Skills and Competencies in a Law Degree' (2012) 25 *New Zealand Universities Law Review* 1.
- Downes T, Hopkins P and Rees W, 'Methods of Assessment in British Law Schools' (1982) 16 *The Law Teacher* 77. doi.org/10.1080/03069400.1982.9992581.
- Epstein R and Hundert E, 'Defining and Assessing Professional Competence' (2002) 287 *Journal of the American Medical Association* 226. doi.org/10.1001/jama.287.2.226.
- Fairfax L, 'The Take Away about Take Home Exams' *Concurring Opinions* (4 February 2010) <<http://concurringopinions.com/archives/2010/02/the-take-away-about-take-home-exams.html>> accessed 12 October 2015.
- Freedman A, 'The Take-Home Examination' (1968) 45 *Peabody Journal of Education* 343. doi.org/10.1080/01619566809537566.
- Gardner H, *Frames of Mind: The Theory of Multiple Intelligences* (3rd edn, Basic Books 2011).
- Happel S and Jennings M, 'An Economic Analysis of Academic Dishonesty and Its Deterrence in Higher Education' (2008) 25 *Journal of Legal Studies Education* 183. doi.org/10.1111/j.1744-1722.2008.00051.x.

- Harden R and others, 'AMEE Guide No. 14: Outcome-Based Education: Part 5 – From Competency to Meta-Competency: A Model for the Specification of Learning Outcomes' (1999) 21 *Medical Teacher* 546. doi.org/10.1080/01421599978951.
- Havelock R, 'Law Studies and Active Learning: Friends Not Foes?' (2013) 47 *The Law Teacher* 382.
- HECSU, 'What Do Graduates Do? 2012' (2012) <www.hecsu.ac.uk/assets/assets/documents/WDGD_Oct_2012.pdf> accessed 14 October 2015.
- , 'What Do Graduates Do? 2013' (2013) <www.hecsu.ac.uk/assets/assets/documents/WDGD_Sept_2013.pdf> accessed 21 October 2015.
- , 'What Do Graduates Do? 2014' (2014) <www.hecsu.ac.uk/assets/assets/documents/wdgd_september_2014.pdf> accessed 14 October 2015.
- , 'What Do Graduates Do 2015' (2015) <www.hecsu.ac.uk/assets/assets/documents/wdgd_2015.pdf> accessed 21 October 2015.
- Hemming A, 'Online Tests and Exams: Lower Standards or Improved Learning?' (2010) 44 *The Law Teacher* 283.
- Hepple B, 'The Renewal of the Liberal Law Degree' (1996) 55 *The Cambridge Law Journal* 470.
- Jacobson M, 'Primer on Learning Styles: Reaching Every Student' (2001) 25 *Seattle University Law Review* 139.
- jennifer@uppsala, 'Academics – the Courses I've Taken throughout My Time in Uppsala' <<https://glasgowuniversityabroad1112.wordpress.com/2012/03/20/academics-the-courses-ive-taken-throughout-my-time-in-uppsala/>> accessed 14 October 2015.
- Jennings M, 'In Defense of the Sage on the Stage: Escaping from the "Sorcery" of Learning Styles and Helping Students Learn How to Learn' (2012) 29 *Journal of Legal Studies Education* 191.
- JISC, 'Information Behaviour of the Researcher of the Future' (UCL 2008) CIBER Briefing Paper <www.jisc.ac.uk/media/documents/programmes/reppres/gg_final_keynote_11012008.pdf> accessed 30 August 2015.
- Knott C, 'On Teaching Advanced Legal Research' (2009) 28 *Legal Reference Services Quarterly* 101.
- Kolb D, *Experiential Learning: Experience as the Source of Learning and Development* (Pearson 2014).

- Leithner A, 'Do Student Learning Styles Translate to Different "Testing Styles"?' (2011) 7 *Journal of Political Science Education* 416. doi.org/1080/15512169.2011.615195.
- Lopez D and others, 'A Take-Home Exam to Assess Professional Skills', *Proceedings of the 2011 Frontiers in Education Conference* (IEEE Computer Society 2011). doi.org/10.1109/FIE.2011.6142797.
- LSE, 'Executive LLM Master of Laws' (November 2014) <www.lse.ac.uk/collections/law/programmes/ellm/structure.htm> accessed 14 October 2015.
- Marchetti E, 'Influence of Assessment in a Law Program on the Adoption of a Deep Approach to Learning' (1997) 15 *Journal of Professional Legal Education* 203.
- Marsh R, 'A Comparison of Take-Home versus In-Class Exams' (1984) 78 *The Journal of Educational Research* 111. doi.org/10.1080/00220671.1984.10885583.
- Martin E and Hess G, 'Developing a Skills and Professionalism Curriculum – Process and Product' (2010) 41 *University of Toledo Law Review* 327.
- McDowell L, Sambell K and Montgomery C, *Assessment for Learning in Higher Education* (Routledge 2012).
- McGill University, 'University Examination Regulations' (November 2011) <www.mcgill.ca/students/exams/regulations> accessed 14 October 2015.
- Melbourne Law School, 'Writing for Assessment in Law. Take-Home Exams: Exam Management' <www.law.unimelb.edu.au/lawresources/writing-for-assessment/take-home-exams/exam-management> accessed 12 October 2015.
- Mosesson L, 'Using Oral Examinations in Place of Written Ones on Law Degrees' (2011), paper given at the Association of Law Teachers Conference, on file with the authors.
- Örebro University, 'Course Syllabus RV4421: Comparative and Foreign Law' (30 August 2012) <<http://lily.oru.se/studieinformation/VisaKursplan?kurskod=RV4421&termin=20131&sprak=en>> accessed 14 October 2015.
- Paul R and others, 'Thinking Critically about Teaching: From Didactic to Critical Teaching', *Critical Thinking Handbook: 4th–6th Grades* (Foundation for Critical Thinking 1990).
- Pistone M, 'Law Schools and Technology: Where We Are and Where We Are Heading' (2015) 64 *Journal of Legal Education* 586.

- Prospects, 'What Can I Do with My Degree? Law' (March 2015) <www.prospects.ac.uk/options_law.htm> accessed 15 October 2015.
- QAA, 'Higher Education Review' (2015) <www.qaa.ac.uk/en/reviewing-higher-education/types-of-review> accessed 18 July 2019.
- Roe E and Vasta E, 'Assessment in Higher Education: The Current Australian Scene' (1980) 5 *Assessment in Higher Education* 218.
- Shirom A, 'Students' Stress' (1986) 15 *Higher Education* 667.
- Solove D, 'Examining Law School Exams' <http://concurringopinions.com/archives/2006/05/law_school_exam.html> accessed 14 October 2015.
- Susskind R, *Tomorrow's Lawyers: An Introduction to Your Future* (OUP 2013).
- The University of Melbourne, 'LAWresources: Take-Home Exams' (9 May 2012) <www.law.unimelb.edu.au/lawresources/writing-for-assessment/take-home-exams> accessed 14 October 2015.
- Turnitin, 'What We Offer: Originality Checking' (*Turnitin*, 2015) <http://turnitin.com/en_us/what-we-offer/originality-checking> accessed 16 October 2015.
- UKCES, 'The Labour Market Story – Skills for the Future' (UK Commission for Employment and Skills 2014) Briefing Paper <www.gov.uk/government/uploads/system/uploads/attachment_data/file/344441/The_Labour_Market_Story_-_Skills_for_the_Future.pdf> accessed 14 October 2015.
- Weaver R, 'Teaching (and Testing) Administrative Law' (1999) 38 *Brandeis Law Journal* 273.
- Webb J and others, 'Setting Standards. The Future of Legal Services Education and Training Regulation in England and Wales' (SRA, BSB, IPS 2013).
- Weber L, McBee J and Krebs J, 'Take Home Tests: An Experimental Study' (1983) 18 *Research in Higher Education* 473. doi.org/10.1007/BF00974810.
- Winterton J, Delamare-Le Deist F and Stringfellow E, 'Typology of Knowledge, Skills and Competences: Clarification of the Concept and Prototype' (2005) <www.uk.ecorys.com/europeaninventory/publications/method/cedefop_typology.pdf> accessed 13 October 2013.

Appendix I: Take-home exam preparation tips

These tips were shared with students at Bucks New University, to help them prepare for take-home exams. The text below could be adapted for use in other universities.

January 2015

By Dr Egle Dagilyte

Please see Assignments link on the left side of Blackboard shell menu: this is where Assignment Brief (i.e. the question) will be published at 08:00 on Tuesday 20 January 2015.

It has to be submitted within 24 hours by 08:00 on Wednesday 21 January 2015.

- > **IMPORTANT – prepare as if it was a ‘real’ exam:** you will feel there is not enough time in the end anyway!
- > **IMPORTANT – get enough sleep** before the exam. Your head is like a computer: if you do not shut it down, it becomes really slow and can even ‘crash’.
- > **IMPORTANT – create the best working environment** you can: plan eating, breaks and sleeping time; surround yourself with relevant books and reliable internet connection; if you have family responsibilities, think how to accommodate these; if you have a disclosed disability, seek assistance from Admin Office (E2.08) or Student Advice on how it could be accommodated.
- > **IMPORTANT** – when writing your exam, concentrate on *how well* you can write, not on *how much* you can write. Remember: **quality over quantity!**
- > You can use any **literature** (home library, Bucks library, any other library). However, focus on the reading that was allocated in your seminars and lectures, as well as the sources listed on lecture slides or the Module Scheme. Your tutor will not ask about issues that were not discussed in class.
- > You are permitted to **use personal computers or university computers** to complete your take-home examinations. Choose a reliable one!

- > **Save/back-up** your document frequently as you type. Additional time will not be given because of problems with your computer.
- > You can upload multiple drafts to check Turnitin Originality Report, but remember that it is generated only every 24 hours. Stick to good referencing habits in OSCOLA, or use Zotero to **avoid plagiarism**.
- > **Proofread** carefully before handing in – multiple PRINTED COPIES in different fonts allow seeing your own mistakes best.

You can find further useful tips on tackling take-home exams here:

- <https://lawyerist.com/2062/how-to-succeed-on-take-home-law-school-exams/>
- www.powershow.com/view1/1a4a1c-ZDc1Z/Writing_Take_Home_Exams_powerpoint_ppt_presentation
- www.gwr.arizona.edu/tackling1.htm
- http://lawprofessors.typepad.com/academic_support/2007/02/take_home_exams.html
- www.uq.edu.au/student-services/learning/take-home-exams

Appendix II: Melbourne Law School take-home exams guide

The screenshot displays the Melbourne Law School website's 'take-home exams guide'. The page is divided into two main sections: 'Preparation' and 'Exam Management'. The 'Preparation' section includes a sidebar with navigation links and a main content area with text and bullet points. The 'Exam Management' section features a table with a daily schedule for exam preparation.

Writing for Assessment

Feedback and Support

Independent Work

Assignment Timelines

- Timelines
- Standard Stages
- 10 Steps

Take-Home Exams

- Preparation
- Exam Management

Supervised Exams

- Revision and Note-Making
- Practice and Technique
- Performing on the Day

Preparation

It's a big mistake to think that because you will have several days to prepare your response, you don't need to revise in preparation for a take-home exam.

In fact, your revision schedule for a take-home should be similar to that for an in-seat or supervised exam.

By the time the exam is released, you should:

- Be familiar with all areas of subject content
- Have a complete set of subject notes
- Have reviewed the subject objectives and any assessment guides/materials
- Know how your knowledge will be tested on the exam – for example, by hypothetical problems, short essays, extended answers or some combination of these.

The only things you do for a supervised exam that you don't need to do when preparing for a take-home exam are:

- Make 'exam-ready' notes
- Practice old papers under exam conditions.

The additional things you need to do when preparing for a take-home exam are:

- Plan where you will work – you need to organise a workspace (24 hours a day/7) with minimal distractions.
- Plan how you will manage the rest of your life over the exam time – for example, who will care for your children if the exam runs over a weekend? Do you need to re-arrange paid work or sporting/social commitments?

Exam Management

How many hours in a day? In 3 days?

If you need to write 4,000 words in 3 days, how many words do you need to have written by the end of day 2?

You need to have a plan, or at least a rough idea, of how you will manage the exam and your time. Below is a very **tentative sample** that might suit a particular student – think whether it would suit you or how you might adapt it.

Monday	Tuesday	Wednesday	Thursday
Exam released 9am			Exam due 2pm
Skim read entire paper	Read, think and write from notes	Review plan	Skim re-read exam paper and check that response meets all requirements
Re-read paper and make notes about questions, issues etc	Aim to have draft answers completed for half the paper by 10pm	Read, think and write responses to remaining sections	10am-12pm revise and edit response
Think and plan overall response	Compile bibliography and footnotes while drafting	Plan to finish complete first draft by 10pm	12-2pm finalize footnotes and bibliography
Read paper for 3rd time: check identification of issues and weighting of parts			
Read, think, make notes			
Set targets for tomorrow			

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