

# FROM CONFUSION TO CONFIDENCE: TRANSITIONING TO LAW SCHOOL

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*This article presents research about the perceptions and experiences of two cohorts of first year students studying law at a large urban Australian university, tracking the factors that made a difference in their journey from confusion to confidence. The research findings indicate that by the end of their first semester, most students are well settled and connected socially, confident they will succeed and largely satisfied with their degree, but that on most indicators, students did not fare as well as first year university students across the sector. Whilst some of these differences may be associated with demographic profiles or hours allocated to work and study, some may also be attributed the challenges these particular students confront when studying law. These outcomes point to the need for sustained and coherent strategies which support first year students to achieve early independence and self-regulation during their study of law. It reflects on these findings to identify ways in which law schools can assist new students to manage the transition to higher education. Specifically it suggests three ways legal educators might promote the successful transition of diverse student cohorts: firstly, foster student capacity to become independent and effective learners in their own disciplinary context; secondly assist first year students to work harder and smarter, and design workloads that are achievable in the real lives that students lead, without compromising quality outcomes; thirdly, provide opportunities that foster good relationships and promote communities of learning.*

## I INTRODUCTION

The first year of law school is akin to a hero's journey: the first year law student ventures from their known and comfortable world into the new and daunting environment of law school, the student encounters significant trials and challenges and overcomes them, emerging empowered.<sup>1</sup> This article presents research about the perceptions and experiences of two cohorts of first year students studying law at a large urban Australian university, tracking the factors that made a difference in their journey from confusion to confidence. It reflects on these findings to identify ways in which law schools can assist new students to manage the transition to higher education, suggesting that we need to make more explicit what

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<sup>1</sup> Joseph Campbell, *The Hero with a Thousand Faces* (New World Library, 1949). See also Molly Townes O'Brien et al, 'Changing Our Thinking: Empirical Research on Law Student Wellbeing, Thinking Styles and the Law Curriculum' (2011) 21(2) *Legal Education Review* 149, 153.

is required to learn law, and design learning environments and opportunities that foster good relationships and support students to work harder and smarter.

The students in this research differed somewhat from the sector norm and confronted challenges not necessarily experienced by university students enrolled in other faculties or other law schools. These students were more diverse and socio-economically disadvantaged than is the case for ‘traditional’ law schools, with a high incidence of students from low socio-economic status (SES) backgrounds, who were first in family (FIF) to attend university and who spoke a language other than English at home (LOTE). They were less likely than the sector average to be studying their first preference course, and more likely to be working over 20 hours a week in paid employment. They commenced law studies feeling less confident they would succeed, found the work more demanding, and were not as clear about why they were studying law, than students nationally. By the end of their first semester, however, student confidence and overall perceptions of their adjustment improved. Whilst their transition was obviously challenging, and at times they felt overwhelmed and confused, the majority of students managed to juggle their commitments, grapple with the workload and concepts of a new discipline, and were largely satisfied with their law student experience. They said that their friends, their teachers and their own efforts were most important to their successful transition. What would have made their experience easier was more specific and structured guidance about *how* to think and write like a law student, and more teachers who were responsive to their concerns.

Part I of the paper identifies the context in which the research took place: the broader context of transition to university, and the immediate context of the relevant law school and its students. Part II introduces the research methodology, the demographics of the respondent cohorts, and summarises student responses across six key areas and Part III examines the implications of the research results. This discussion is relevant for all in the higher education sector, not just for law schools drawing from less advantaged geographical areas, especially in light of the planned expansion of higher education as recommended in the Bradley Review and the current emphasis on social inclusion.<sup>2</sup>

## II CONTEXT

### *Transition to university*

The significance of the first year university experience is now widely recognised as critical to students’ learning, success and satisfaction at university, and to universities’ capacity to retain students beyond their first year.<sup>3</sup> Educational and

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<sup>2</sup> Denise Bradley, Peter Noonan, Helen Nugent and Bill Scales, *Review of Australian Higher Education: Final Report* (Commonwealth of Australia, 2008); Centre for the Study of Higher Education, *Participation and Equity: A Review of the Participation in Higher Education of People from Low Socioeconomic Backgrounds and Indigenous People* (Universities Australia, 2008); Australian Government, *Transforming Australia’s Higher Education System* (Commonwealth of Australia, 2009).

<sup>3</sup> Australasian Survey of Student Engagement (AUSSE), *Getting First-Year Students Engaged: Research Briefing* (Australian Council for Educational Research, 2010); M Lee Upcraft, John N Gardner, and Betsy O Barefoot, ‘Introduction: The First Year of College Revisited’ in M

financial imperatives have motivated institutional interest and research in the last two decades to understand what makes new university students succeed and stay or, conversely, disengage, fail or withdraw.<sup>4</sup> The evidence suggests that a successful first year enhances persistence and retention, particularly where attempts are made to address the whole student experience and the multiple transitions that students make in their first year.<sup>5</sup>

The transitions students experience are many and varied over the course of the first university year, as are student responses. Approximately three quarters of Australian university students are satisfied with their first year experience, are clear about why they are studying, find their course stimulating, and believe that their teachers are enthusiastic and of good quality.<sup>6</sup> This is to be balanced against findings that suggest only about half report a sense of belonging to their university community or believe a teacher knows them by name, and that a third find it difficult to get motivated to study, are dissatisfied with teacher feedback on their progress, and are seriously consider deferring or dropping out.<sup>7</sup> About 10 percent are highly disengaged or dissatisfied with most aspects of their university experience and lack a sense of purpose.<sup>8</sup>

Widening participation rates and increasingly diverse cohorts mean that not all new university students are adequately prepared for the demands of their first university year.<sup>9</sup> The pressures may be greater in intellectually demanding courses like law which attract higher achieving students who have high expectations of themselves. An alarming number of law students, including first year students, suffer depression and other mental health problems, and it is possible that the competitive, isolating, adversarial learning environment at law school may be responsible.<sup>10</sup> A significant proportion of the law students

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Lee Upcraft, John N Gardner and Betsy O Barefoot & Associates (Eds), *Challenging A and supporting the first-year student: A handbook for improving the first year of college* (Jossey-Bass, 2005) 1.

<sup>4</sup> For example, Kerrie-Lee Krause, Robyn Hartley, Richard James and Craig McInnis, *The First Year Experience in Australian Universities: Findings from a Decade of National Studies* (Australian Department of Education, Science and Training, 2005); Richard James, Kerrie-Lee Krause and Claire Jennings, *The First Year Experience in Australian Universities: Findings from 1994 to 2009* (Centre for the Study of Higher Education, 2010); Ernest Pascarella and Patrick Terenzini, *How College Affects Students: A Third Decade of Research, Volume 2* (Jossey-Bass, 2005). In the legal education context, see also Wendy Larcombe, Pip Nicholson and Ian Malkin, 'Performance in Law School: What matters in the beginning?' (2008) 18 (1 and 2) *Legal Education Review* 95.

<sup>5</sup> Lee Harvey and Sue Drew with Maria Smith, *The first-year experience: a review of literature for the Higher Education Academy, Executive summary* (The Higher Education Academy, 2006) 106-107.

<sup>6</sup> James et al, above n 4, 6; Mantz Yorke and Bernard Longden, *The First-Year Experience of Higher Education in the UK: Final Report* (The Higher Education Academy, 2008) 44.

<sup>7</sup> James et al, *ibid*, 1-6; Australasian Survey of Student Engagement (AUSSE) *Doing more for learning: Enhancing engagement and outcomes: Australasian Survey of Student Engagement, Australasian Student Engagement Report* (Australian Council for Educational Research, 2010) x.

<sup>8</sup> James et al, *ibid*, 5.

<sup>9</sup> Centre for the Study of Higher Education Participation and Equity, *A review of the participation in higher education of people from low socioeconomic backgrounds and Indigenous people* (Universities Australia, 2008); Australian Government, above n 2.

<sup>10</sup> Norman Kelk, Georgina Luscombe, Sharon Medlow and Ian Hickie, *Courting the Blues: Attitudes towards depression in Australian law students and legal practitioners* (Brain & Mind

evaluated in a pilot study at this law school found their experience overwhelming, and reported high levels of anxiety, uncertainty and disengagement.<sup>11</sup>

Research indicates that several factors within university and faculty control can predict first year persistence and success. North American experience suggests that four things can make a difference: holding high expectations for student learning, providing academic and social support, ensuring frequent feedback about their learning and requiring students to actively share learning.<sup>12</sup> A British review concluded that the primary emphasis should be on facilitating student-teacher and inter-student interactions as part of holistic promotion of quality teaching and learning that responds to student strengths and varied experiences.<sup>13</sup> Fifteen years of Australian research points to the importance of managing student expectations, monitoring time on task, strengthening student and staff interactions, ensuring better match between course choice and aptitude, and responding to students at risk or who are disengaged.<sup>14</sup> Australian pioneers of supporting the first year experience argue that the strongest predictor of first year success is student time on task, and other indicators include attending class, having a clear sense of purpose, and developing a social network.<sup>15</sup>

### *The Law school, its students and teachers*

The students who were the focus of this study attend the University of Western Sydney (UWS), a 'new' law school in the centre of a large metropolitan city. The geographical areas from which students are largely drawn are some of the most culturally, religiously, linguistically and ethnically diverse and socio-economically disadvantaged in the city.<sup>16</sup> About 800 students enrol in law each year, with 150 commencing in second semester. Law is offered in nine degree programs and taught on two campuses. Other courses are taught across four campuses, so double degree students may be commuting significant distances each week.

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Research Institute, 2009); Kennon M Sheldon and Lawrence S Krieger, 'Does Legal Education Have Undermining Effects on Law Students? Evaluating Changes in Motivation, Values, and Well-Being' (2004) 22 *Behavioral Science & Learning* 26 (2004); G Andrew Benjamin Alfred Kaszniak, Bruce Sales and Stephen B Shanfield, 'The Role of Legal Education in Producing Psychological Distress Among Law Students and Lawyers'[1986] *American Bar Foundation Research Journal* 225.

<sup>11</sup> Susan Armstrong, Marnie Campbell and Michael Brogan, 'Interventions to enhance the student experience of a first year law degree: what they really wanted' (2009) 2 *Journal of the Australasian Law Teachers Association* 135, 135.

<sup>12</sup> Vincent Tinto, 'Taking Student Retention Seriously: Rethinking the First Year of University Study' (Keynote presentation to the *ALTC First Year Curriculum Design Symposium*, Queensland University of Technology, Brisbane, 5 February 2009) 3.

<sup>13</sup> Harvey et al, above n 5, 138-9.

<sup>14</sup> James et al, above n 4, 103-104.

<sup>15</sup> Keithia Wilson and Alf Lizzio, 'Student Diversity and Engagement in the First Year Experience' (Presentation to the University of Western Sydney, 19 November 2010) slide 43.

<sup>16</sup> See the local government demographic profiles for western Sydney at <<http://profile.id.com.au>>; Australian Bureau of Statistics, *Socio-Economic Indexes for Areas* (Cat No2033.0.55.001) (2006). 70% of UWS students come from western Sydney. 'University dream becomes reality at UWS for first in family students' (UWS, 2012) <[http://www.uws.edu.au/newscentre/news\\_centre/feature\\_story/university\\_dream\\_becomes\\_reality\\_at\\_uws\\_for\\_first\\_in\\_family\\_students](http://www.uws.edu.au/newscentre/news_centre/feature_story/university_dream_becomes_reality_at_uws_for_first_in_family_students)>.

The law school has more 'equity' students (low SES, disability, and non-English speaking background (NESB)) than is the case across the sector.<sup>17</sup> Law students at this university are more likely to come from lower SES backgrounds than law students at traditional law schools.<sup>18</sup> Half of UWS law students are the first in their family to attend university.<sup>19</sup> A language other than English (LOTE) is spoken at home by a third of UWS law students.<sup>20</sup> They are significantly less likely to have a parent who has attended university or an independent school, or who has worked professionally in a legal context.<sup>21</sup> UWS law students are less likely to have role models or resources within their families to help them develop legal academic skills and legal professional attributes. All come to university with different cultural and academic capital than traditional law students and may be more vulnerable to experiencing difficulties and in need of greater support.

The law school supports students transitioning to university through an ongoing orientation and student support program and the guidance of a First Year Advisor whose role is to connect students socially, provide pastoral care and monitor their transition. Social connectedness is facilitated through an orientation camp, social activities targeted to different student groups, a buddy system and peer mentoring. The first year law undergraduate curriculum exposes students to the substantive criminal law and the law of torts, develops their understanding of legal method and research skills, and fosters critical and logical thinking about contemporary legal issues. The graduate law program adds to this the study of constitutional law, contract, property and legal professional ethics. Key assessment tasks evaluate legal problem solving, case analysis, group work, legal research and writing, oral advocacy, logical thinking and the development of critical thinking.

The first year law program emphasises smaller classes (of about 40 students), most are scheduled for three hours and face to face attendance is compulsory for undergraduate students. Providing smaller classes generally means increased casualisation of teaching in first semester. Students are typically required to read up to 60 pages of law materials for classes often conducted in a modified Socratic

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<sup>17</sup> *Law Field of Education and Total UWS by Equity Group - Domestic Students Only, 2009 and 2010*, Office of Planning and Quality, University of Western Sydney (OPQ, UWS) (UWS, 2011).

<sup>18</sup> In 2009, 20% of UWS domestic Law School entrants were low SES, in 2010, 21%, OPQ, *ibid*; John Goldring and Sumitra Vignaendra, *A Social Profile of New Law Students in the Australian Capital Territory, NSW and Victoria* (Centre for Legal Education, 1997).

<sup>19</sup> 'First in Family' (FIF) are those for whom neither parent was a university graduate. This is a way of categorising student's socio economic status, as prior parental experience of higher education identifies the likely educational, social and cultural resources surrounding a first year student. In 2010 (the first year this question was asked at UWS), 49% of UWS Law School entrants were considered FIF: *Highest Educational Attainment of Either Parent/Guardian, 2010*, OPQ, UWS (UWS, 2011). One UWS law graduate noted she was 'the first in my family to have completed my Higher School Certificate, let alone my degrees and being admitted as a solicitor in NSW', Soraiya Gharakhani, 'DOCS appoints first Aboriginal law officer', *Campbelltown Macarthur Advertiser*, 10 September 2008 <<http://www.macarthuradvertiser.com.au/news/local/news/general/docs-appoints-first-aboriginal-law-officer/1268736.aspx>>.

<sup>20</sup> In 2009, 33% of UWS domestic Law School entrants spoke a language other than English at home (LOTE) (37% including overseas students). In 2010, 37% domestic students LOTE, (40% including overseas students): *Law and Total Students by Residency Status and Language Spoken at Home UWS, 2009 and 2010*, OPQ, UWS (UWS, 2011).

<sup>21</sup> Goldring and Vignaendra, above n 18.

style. In this approach, the active learning benefits of a question and answer style are promoted by posing questions to the whole group in a non-threatening environment in which discussion is encouraged and the teacher assumes the role of ‘nurturing teacher’.<sup>22</sup>

### III RESEARCH

This research followed an earlier pilot study evaluating a first year transition program for new law students at this law school. The pilot identified a worrying proportion of students struggling with workload, unsure how to study law or to complete assessments and thinking seriously about dropping out.<sup>23</sup> The transition program was further developed in response to pilot findings and further research, the subject of this paper, was initiated to determine whether the pilot findings were more widespread; to get a clearer picture of the dynamics behind the UWS first year law experience; to identify differences in experience between sub-cohorts; and to identify student views about what could have assisted their transition. The intention was to use the research to further calibrate the program and ensure that the needs of specific sub-cohorts were appropriately targeted.

#### A Method

We used a mixed methods approach that combined a self-report survey, which included qualitative comments, with focus group discussions.<sup>24</sup> The survey consisted of 14 demographic questions and 27 questions about the students’ first year experience rated on a five point Likert scale: from (1) ‘Agree’ to (5) ‘Strongly disagree’. These questions were drawn from the previous pilot survey and also from Australian first year experience surveys.<sup>25</sup> The survey concluded by asking students three open-ended questions about their biggest challenge, what most helped them adjust to university and what more the law school could do to help them better adjust. Three *post hoc* focus groups involving 15 students were held on both campuses in the final week of first semester to discuss students’ challenges and adjustment. The discussion centred around three issues: whether their experience had differed from their expectation; what they might do differently in hindsight; and whether they felt they had developed the skills and resources to be a successful student. The qualitative data was coded and analysed using a grounded-theory technique with participant responses guiding the coding.<sup>26</sup> Our quantitative results complement our qualitative findings and the combination of both lends weight to our conclusions.

Survey participants were enrolled in a foundational legal history, method and research subject, a prerequisite for substantive law subjects. The survey was administered to two cohorts of students in weeks 4 and 11 of a 14 week first semester and to the mid-year intake of students in week 4 of second semester. The

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<sup>22</sup> Nikki Bromberger, ‘Enhancing Law Student Learning — The Nurturing Teacher’ (2010) 20 (1 and 2) *Legal Education Review* 45.

<sup>23</sup> Armstrong, et al, above n 11.

<sup>24</sup> R Burke Johnson and Anthony J Onwuegbuzie, ‘Mixed methods research: A research paradigm whose time has come’ (2004) 33 *Educational Researcher* 14–26.

<sup>25</sup> James et al, above n 4.

<sup>26</sup> Anselm Stauss and Juliet Corbin, *Basics of qualitative research: Grounded theory procedures and techniques* (Sage, 2008).

first cohort comprised Group A (n = 115) and Group B (n = 229) and the second mid-year cohort was Group C (n = 124). We used SPSS to code and analyse the data calculating frequencies, mean scores, t-tests and one-way ANOVA. The Mann–Whitney U test was used to compare results between Group A and Group C.

### *B Cohort characteristics*

The main characteristics of each cohort, and comparative sector figures, are summarised in Table 1 below.

**Table 1: Cohort Characteristics**

Variable	Subsets	UWS Law Group A %	UWS Law Group B %	UWS Law Group C %	Higher Ed Sector <sup>27</sup> %
Age	Under 25	87	87	77	89
Equity groups	Indigenous	3	3	2	2
	LOTE	34	38	36	29
	FIF <sup>28</sup>	24	32	35	40
Course was 1st preference		58	63	60	75
Course attendance	Full-time	89	89	77	
	Part-time	11	11	23	
Paid work	Not working	34	38	30	
	< 10 hrs	46	57	41	50
	11-20 hrs	30	25	25	39
	> 20 hrs	24	18	34	12
Carer responsibilities		20	14	20	
Hours preparing for class weekly	< 10 hrs	42	33	49	10.6 hrs average all students
	11-20 hrs	36	38	35	
	> 20 hrs	22	29	16	
UAI	> 90	28	22	18	
	75-89	52	47	33	
	< 75 <sup>29</sup>	20	31	49	
Formal educational experience in last 3 years	High school <sup>30</sup>	55	55	28	67
	TAFE	9	14	18	8
	University	22	19	38	18
	Other <sup>31</sup>	14	12	11	

From this we can see that the first cohort of students were more likely than the second cohort to:

- be younger and have come straight from school;

<sup>27</sup> James et al, above n 4.

<sup>28</sup> The figures here may not necessarily be comparable to the Higher Education sector. James et al's study reported 'The proportion of students whose parents do not have a university degree', James et al, above n 4, 21. Students in the current study were asked if they were the first in their family to attend university, and may have understood 'family' to include their siblings.

<sup>29</sup> This group includes those with no Universities Admissions Index (UAI) and students whose UAI may have been achieved prior to entering the workforce or other tertiary courses.

<sup>30</sup> James et al do not distinguish whether students attended high school in the last three years, James et al, above n 4, 28.

<sup>31</sup> This group comprises students who studied at university or TAFE more than three years ago, and those who had not undertaken any formal education since school, and finished high school more than three years ago.

- have achieved a higher university entrance score; and
- be enrolled full time.

Group C, who commenced legal studies mid-year, were more likely than the first cohort to:

- have been attending either university or a vocational institution prior to enrolling in the law degree;
- have lower final year school grades;
- be first in their family to attend university;
- be enrolled part time and have carer responsibilities;
- be engaged in paid work and be working more than 20 hours per week; and
- do fewer hours of private study each week.

The profile of both cohorts differs in important ways to the average first year university student in Australia. The students in this study were less likely than the sector to be studying in the course of their first preference. They were more likely to have started another university degree or to have undertaken a vocational course and less likely to have come straight to university from school. Both cohorts were more likely than the sector to be working more than 20 hours per week. This is an important difference, and generally a significant predictor of ‘negative experiences of university and poorer academic progress’.<sup>32</sup>

#### *The first year experience*

The picture presented by the students in this study about their first year university experience is more positive than one gleaned from the previous pilot study. The present study finds that by the end of their first semester, these law students were generally well settled and connected socially, confident they will succeed and largely satisfied with their degree. However, on most indicators both cohorts of students did not fare as well as first year university students across the sector. Whilst some of these differences may be associated with demographic profiles or hours allocated to work and study, some may also be attributed the challenges these particular students confront when studying law. These outcomes point to the need for sustained and coherent strategies which support first year students to achieve early independence and self-regulation during their study of law.

#### *D Engagement*

When students are engaged, they are involved in activities and conditions likely to generate high-quality learning.<sup>33</sup> Engaging first year undergraduates is particularly important as it facilitates transition, learning, success, satisfaction and persistence.<sup>34</sup> Students in this study report that they were socially connected in a way that benefited their academic transition, with two thirds reporting that working with friends improved their understanding of law. All groups identified friends as the factor which most helped them adjust to being a law student. One captured the normalising and supportive role played by ‘*finding other people who*

<sup>32</sup> James et al, above n 4, 75.

<sup>33</sup> AUSSE, *Doing more for learning*, above n 7.

<sup>34</sup> Ibid.

*are in the same position – you know you're not the only one and together you help each other.*<sup>35</sup> Conversely, it is worrying that even by the end of first semester one in seven students agreed they felt isolated and had not made friends and one in five had thought seriously about dropping out, figures which are comparable to the wider first year cohort, and the pilot study.<sup>36</sup>

A key engagement measure is hours spent preparing for class.<sup>37</sup> About 40 percent of students in both cohorts indicated they generally worked up to 10 hours per week preparing for law class and doing assessments, slightly less said they did 10 to 20 hours class preparation, and one in four prepared for more than 20 hours per week. Students in the second intake generally prepared for shorter time. This time spent preparing parallels the sector average of 10.6 hours per week for full time students from all disciplines, but is unlikely to be sufficient for a demanding and conceptually complex course like law.

Despite the limited hours students prepared for class, over half Group A respondents agreed that they were preparing carefully for class and working as hard as they could on their law studies, with fewer students in Group C agreeing. Those preparing for fewer than ten hours per week were less likely to agree they are preparing carefully, suggesting they are aware there is scope to work harder.<sup>38</sup> This insight is evident in the remark by one student who said that at the beginning of the semester *'I was really motivated, so I did a lot of reading, a lot of work, and I started seeing that it's not that hard, so I started slowing down, and I started having more fun, and now I'm like – it's piling on!'*<sup>39</sup> Perceptions of preparing carefully and working as hard as possible were strongly correlated with students' clarity about their reasons for studying law.<sup>40</sup>

It is not only time on task that is important for university success, but also time in class.<sup>41</sup> Students' attendance on campus is linked to 'their involvement with and integration into the learning community.'<sup>42</sup> Students in both semesters indicated a high level of commitment to attending classes, although this may be because 80 percent attendance is required for UWS first year law undergraduates. Attendance was strongly correlated with students' satisfaction with their law course, and their clarity of purpose in studying law.<sup>43</sup> Seventy percent of both cohorts were clear about their reasons for studying law, fewer than the 88 percent of students nationally.<sup>44</sup> Sixty percent of both cohorts were very satisfied with their course to date, lower than the 71 percent of the national cohort who reported they were satisfied.<sup>45</sup>

Students' capacity to engage with their law studies may be limited by their non-university commitments and desire to achieve some balance in their life. Two

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<sup>35</sup> Summary of Themes, Open Ended Questions, Group A, Autumn 2009, 11.

<sup>36</sup> James et al, above n 4, 61.

<sup>37</sup> AUSSE, above n 7.

<sup>38</sup> Mean = 2.50; significance = 0.00.

<sup>39</sup> Transcript, First Year Law Students Focus Group 1, May 2009, 2.

<sup>40</sup> >0.4, significant at the 0.01 level.

<sup>41</sup> James, et al, above n 4, 102.

<sup>42</sup> Ibid, 50.

<sup>43</sup> >0.4, significant at the 0.01 level.

<sup>44</sup> James et al, above n 4, 27.

<sup>45</sup> Ibid, 6.

thirds of students in both cohorts work in paid employment, slightly more in the second cohort. Half of the students who work were employed for fewer than 10 hours a week, with more Group B students working fewer hours overall later in semester one. Students working longer hours at this time were significantly more likely to be 'completely overwhelmed' by their studies.<sup>46</sup> Nationally, first year university students work an average of 13 hours per week.<sup>47</sup> More second semester Group C students worked longer hours, with one in three working more than 20 hours per week, compared with Group A (one in four) and Group B (one in five). Across the sector, a commitment of more than 16 employment hours weekly is correlated with poorer grades, trouble with comprehension, as well as general dissatisfaction with their degree and greater isolation from other students.<sup>48</sup> As James et al note, the 'confidence that students can successfully balance study and work commitments may be misplaced.'<sup>49</sup>

### *E Adjusting to studying law*

Students commented that their biggest challenge of being a law student, particularly early in semester, was coping with the volume of reading for class and developing time management skills to juggle their outside commitments and their law studies. As one student remarked, *'the amount of reading is way more than when I was previously studying.'*<sup>50</sup> Others found law more demanding than their other subjects, with one student explaining *'I don't find I need to prepare that much for Arts, but Law, I really have to keep on top of the reading.'*<sup>51</sup> This challenge was compounded by the *'dense content of the textbooks'*, but compensated because *'the content is interesting.'*<sup>52</sup> Whilst a third of Group B students still found managing the workload their biggest challenge by the end of the semester, students' range of concerns had multiplied at this time to include balancing the demands of university, work and other commitments; coping with assessment; staying motivated; and developing time management skills. Graduate students in particular felt pressured by the heavy workload of their course.

Forty one percent of students in both cohorts reported being 'completely overwhelmed' by what they have to do as a law student, compared to 33 percent of all university students.<sup>53</sup> Students more likely to be overwhelmed were later semester Group B students, first in family to attend university and those who worked longer hours.<sup>54</sup> One student commented that she felt more overwhelmed later in the semester *'because you realise how much you've actually got to do.'*<sup>55</sup> Half of students agreed that they found the amount of work involved in studying law was manageable, and about the same proportion said they had managed to

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<sup>46</sup> Mean = 2.28, significance = 0.042.

<sup>47</sup> James et al, above n 4, 68.

<sup>48</sup> Ibid, 76.

<sup>49</sup> Ibid, 75.

<sup>50</sup> UWS Law Student Survey, Group A, Autumn 2009, Open Ended Questions, 6.

<sup>51</sup> UWS Law Student Focus Group 3, 22 May 2009, Transcript, 5.

<sup>52</sup> UWS Law Student Survey, Group A, Autumn 2009, Open Ended Questions, 2009, 5, 6.

<sup>53</sup> James et al, above n 4, 91.

<sup>54</sup> Mean 2.25, significance = 0.002; mean 2.28, significance = 0.042; mean = 2.48, significance = .003.

<sup>55</sup> UWS Law Student Focus Group 1, 20 May 2009, Transcript, 2.

juggle their outside commitments and law studies. It is worrying that half were not handling their workload or achieving balance, more than the third of first year students across the sector who find the workload too heavy.<sup>56</sup> Comprehension is an important indicator of whether students are successfully understanding and managing the demands of university study. Thirty three percent in this study found it quite difficult to comprehend the material they are supposed to study, compared to 19 percent across the sector, with students who speak a language other than English at home significantly more likely to report this.<sup>57</sup>

A marker of students' successful transition to university is alignment between their expected performance and the grades they receive for their first assessment tasks.<sup>58</sup> Overall, about 40 percent of students in both cohorts indicated that they had received the assessment results they had expected, compared with half the students in the sector.<sup>59</sup> One in three in this study reported that feedback helped them understand their result, consistent with the wider sector.<sup>60</sup> Half of all respondents indicated that the standard of work was higher than they expected, more than the 40 percent in the sector who agreed with this statement.<sup>61</sup> These results suggest a mismatch between student expectations and evaluation of their own performance and the standards of performance expected by teachers. Some expressed real surprise about their results, capturing a sense of uncertainty about what it was that students had to do to get good results. One observed that she was *'getting distinctions for Business, and just passing for Law, even though I put in double the effort. ... I understand it's a learning process, and I'd be very surprised if I was getting top marks first round, but ... there were simple things that I think if we were told from the beginning, it would have helped.'*<sup>62</sup>

After friends, students indicated that the two factors that most helped them adjust to being a law student were their teachers and themselves. The importance of teachers is discussed in the next section, but it is significant that in the latter part of first semester when students had the benefit of experience, that they ranked their own efforts at prioritizing, developing a routine, cutting back on work hours, making an effort to keep up and trial and error as more important in their adjustment than their teachers. This is reflected in the remark by one focus group student that adjustment is *'a personal thing. You just have to pull yourself together, and you can't get someone else to do that'*, agreeing that ultimately *'you have to go through it to learn it.'*<sup>63</sup> Another confirmed this appreciation, observing at the end of the semester, *'that first semester's such a trial by fire that you have to pick up those skills because if you don't, you're going to struggle a*

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<sup>56</sup> James et al, above n 4, 6.

<sup>57</sup> Group B mean = 2.87, significance = 0.012; Group C mean = 2.63, significance = 0.001.

<sup>58</sup> James et al, above n 4, 40; Keithia Wilson, 'The Impact of Institutional, Programmatic and Personal Interventions on an Effective and Sustainable First-Year Student Experience' (Keynote Paper presented at 12th Pacific Rim First Year in Higher Education Conference, Townsville, Australia, 29 June – July 1, 2009) 13; Krause, above n 4, 22.

<sup>59</sup> James et al, above n 4, 40

<sup>60</sup> Ibid, 82.

<sup>61</sup> Ibid, 42.

<sup>62</sup> UWS Law Student Focus Group 2, 21 May 2009, Transcript, 3.

<sup>63</sup> UWS Law Student Focus Group 1, 20 May 2009, Transcript, 2.

lot.’<sup>64</sup> Others reflected that there was not anything more that could have been done besides encourage them – they felt they had to learn from their mistakes.

### F Teaching and learning

The students in this study were generally satisfied with their teachers, and teachers were identified by both cohorts as the second most important factor assisting their transition to university. Three in four students found their teachers approachable, and about two in three found it easy to ask their teachers for assistance if needed. This is largely consistent with students nationally, although only one in three students in the sector regularly approach their teachers for help and fewer nationally felt individually known by their teachers.<sup>65</sup> This difference may be explained by the greater opportunity for face to face interaction with first year students at this law school. Room sizes preclude large lectures and teaching is generally done in smaller classes (of about 40 students). This, and a compulsory attendance requirement for undergraduate students, may facilitate more intensive and more frequent interaction with teachers. As noted above, student attendance in this study is strongly correlated with overall satisfaction, clarity of purpose, and also with teacher approachability.

Just over half students believed their teachers make an effort to understand the difficulties they experience and 60 percent agreed that teachers help them understand what they needed to do to be a successful law student. Students saw teachers as key facilitators of their transition: by delivering interesting seminars, developing a supportive atmosphere in class, being genuinely interested and providing guidance when needed. One focus group student remarked that it was good teaching that made the difference in his success, explaining *‘I’ve had brilliant teachers.’*<sup>66</sup> He observed that one teacher *‘breaks everything down and is very precise in the way she teaches. So, different teachers have definitely got a different effect, because the students who were failing – and dismally failing – last semester, are actually passing quite well.’*<sup>67</sup> However, responses also reveal a high degree of ambivalence about teachers, with more than one in four undecided about whether teachers are understanding and helpful. A number commented about teacher reluctance to help after class, and said they wanted more assistance when they asked for it, and for teachers to *‘answer our emails’* and to *‘make time to listen to students.’*<sup>68</sup>

Students suggested that teachers could make a bigger difference to their learning. They wanted more clarity and simplicity from teacher explanations, more understanding and flexibility in relation to the challenges students confront, and more explicit guidance about assessment: how to do it and how to do it well. As one observed: *‘give a stronger outline of expectations and sample answers in order to enable students to derive the level of understanding and effort required to achieve top grades.’*<sup>69</sup> Many wanted more practice of assessment tasks, preferably

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<sup>64</sup>UWS Law Student Focus Group 3, 22 May 2009, Transcript, 3.

<sup>65</sup> Ibid, 82.

<sup>66</sup>UWS Law Student Focus Group 2, 21 May 2009, Transcript, 11.

<sup>67</sup> Ibid.

<sup>68</sup>UWS Law Student Survey, Group A, Autumn 2009, Open Ended Questions, 17; UWS Law Student Survey, Group B, Autumn 2009, Open Ended Questions, 37.

<sup>69</sup>UWS Law Student Survey, Group A, Autumn 2009, Open Ended Questions, 18.

in class with guidance and discussion, and exemplars to apprehend what they had to do and the standard expected. Another remarked '*it can be harder thinking about how to write than what to write.*'<sup>70</sup> A consistent theme in the focus group discussions was student awareness that '*applying it is the key.*'<sup>71</sup> As one explained, they discussed and understood the legal concepts, '*but it's applying it. I'm not really sure how to structure the answer, although they tell us. ... So I know the rules, but we haven't had any practice to see how the answer should be structured.*'<sup>72</sup>

### G Multiple first year experiences

Students new to university do not have a uniform experience, and it is important to appreciate that many factors will influence their transitions. The data indicate that the demographic profile of the second cohort of second semester starters at law school was different to the same group in first semester. They were more likely to not have come straight from school, to be older, to have studied at a TAFE or university previously, to be enrolled part time and to be working longer hours and preparing less than semester one students. As a cohort, they were significantly more likely than the first semester students to agree that they got the marks they expected,<sup>73</sup> to find feedback helpful,<sup>74</sup> more likely find their teachers available<sup>75</sup> and to approach them for help.<sup>76</sup> As many more had studied previously, were older and more likely to be part time, it seems that their prior experience may have shaped more realistic expectations and assisted their adjustment to a new discipline. Among this cohort, students with prior university experience were significantly more likely to be clear about their purpose at university, to report they are managing, and to be confident they will succeed. This tends to reinforce the view expressed earlier that '*you have to go through it to learn it.*'<sup>77</sup>

Similarly part-time students were significantly more likely to report that they got the marks they expected, understood what they had to do for assessment, felt they were working as hard as they could, attended classes and managed to juggle their different commitments.<sup>78</sup> The number of part-time students is small, however. In both cohorts, students who speak a language other than English at home reported more difficulty comprehending. The data do not identify any statistically significant differences in the transition experienced by first in family, older students, students with different university entry scores, or those who did not choose this law school as their first preference. However, the qualitative comments indicate that older students and graduate students wanted their particular needs recognised. They said they struggle with the greater volume of work, and wanted more guidance about *how* to approach assessment, and more

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<sup>70</sup> Ibid.

<sup>71</sup>UWS Law Student Focus Group 2, 21 May 2009, Transcript, 8.

<sup>72</sup>UWS Law Student Focus Group 1, 20 May 2009, Transcript, 9.

<sup>73</sup> Mean = 2.67, significance = 0.045; Mann Whitney = 0.049.

<sup>74</sup> Mean = 0.015, significance = 0.015;

<sup>75</sup> Mean = 2.20, significance = 0.023;

<sup>76</sup> Mean = 2.18, significance = 0.043; Mann Whitney = 0.017.

<sup>77</sup> UWS Law Student Focus Group 1, 20 May 2009, Transcript, 2.

<sup>78</sup> Mean = 2.39, significance = 0.015; mean = 2.00, significance = 0.027; mean = 1.71, significance = 0.043; mean = 2.00, significance = 0.027.

flexibility with deadlines and requested that social activities be held at times that they could attend.

#### IV IMPLICATIONS

This research indicates that many students found their initial academic experience at law school a '*trial by fire*'.<sup>79</sup> By the end of their first semester, students felt '*confident enough to go forward, ... and reasonably well-prepared*' but indicated they '*would have liked some more guidance*', particularly about *how* to engage in their learning and assessment tasks.<sup>80</sup> The transition from confusion to confidence as a law student does not need to be as difficult as many in this study found it to be. The findings reinforce what we know about first year students generally, and the differences are of degree rather than kind. The findings, in the context of UWS student demographics, highlight how law schools might more effectively support transitioning students, especially vulnerable and disadvantaged students, to minimise their confusion and optimise their confidence and success. The following discussion considers five strategies that would assist new law students, particularly those from non-traditional backgrounds and with diverse prior learning experiences: helping students to understand how to learn in law; supporting students to manage their workloads; adjusting expectations about marks and feedback; scaffolding support to assist students develop the disciplinary conventions of thinking and communicating like a lawyer; and providing opportunities to foster relationships that promote learning.

##### A *Helping law students to learn how to learn*

The students in this research consistently called for more guidance about *how* to engage with the disciplinary knowledge and conventions of law. Most achieved a capacity to navigate the discipline by the end of their first semester, but often through trial and error. Rather than leave this to chance, student acquisition of legal disciplinarity is facilitated by making more explicit what is required to learn law, assisting students to recognise and construct legal knowledge and sequencing, scaffolding and embedding this development across and within an intentional first year law curriculum. Legal educators and institutions share responsibility to support first year students to a point where they are equipped to learn independently.

Facilitating transition to university involves two things: helping students to understand what is expected from them at university by addressing their conceptions of learning and knowledge; and gradually developing their competence as independent learners as well as their capacity to construct disciplinary knowledge.<sup>81</sup> Such an approach provides guidance about *how* to study law, including to those who arrive at university with varied prior learning experience. The breadth of these prior experiences emphasises the need to make more visible the conventions of learning and knowing in law. Its importance is heightened in the context of widening participation agendas and to avoid the risks

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<sup>79</sup>UWS Law Student Focus Group 1, 20 May 2009, Transcript, 2.

<sup>80</sup>UWS Law Student Focus Group 2, 21 May 2009, Transcript, 11.

<sup>81</sup> Ursula Wingate, 'A Framework for Transition: Supporting 'Learning to Learn' in Higher Education' (2007) 61 *Higher Education Quarterly* 391, 394.

of ‘dumbing down’.<sup>82</sup> A more conscious approach to promoting legal learning may also assist us to better understand how we might develop student capacity to self-manage their learning, as prescribed by *Threshold Learning Outcomes in Law*.<sup>83</sup> If ‘the ability to learn and make use of learning in an independent fashion’ is ‘the key feature of graduatedness’, then students should be explicitly assisted to develop this capacity.<sup>84</sup>

Wingate has observed that “‘learning to learn” at university is a complex personal development process involving the change of perceptions, learning habits and epistemological beliefs’ and that a ‘systematic and comprehensive approach to supporting students’ is required to support this process.<sup>85</sup> First year students in one British study felt ‘that learning was about accumulation and memorising.’<sup>86</sup> Others had little understanding of what “‘work” might consist of in relation to study, and how work had to be organised to fit into the scheduling of time.’<sup>87</sup> It is likely that the students in the present study have comparable views, given their struggle with learning law and their allocation of time to task. Legal educators need to engage in explicit dialogue with students about their conceptions of learning, and assist them to identify their abilities as a learner and their preferred learning styles, set and monitor goals and evaluate their achievement.<sup>88</sup> Law teachers should vary their teaching methods to cater for a range of student learning styles.<sup>89</sup>

Realistic student perceptions of what university educators expect from them may facilitate student transition to tertiary study. McPhail et al report on an orientation session that explored the differences between school and university life, explained academics’ expectations of students, discussed independent learning and provided general tips and strategies for success.<sup>90</sup> This exercise resulted in a significant shift in students’ perceptions of their own responsibility for learning. However optional ancillary support strategies such as this may not reach the students who most need it. Learning support for all students, and particularly for those with greater

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<sup>82</sup> Tamsin Haggis, ‘Pedagogies for Diversity: Retaining Critical Challenge amidst Fears of ‘Dumbing Down’ (2006) 31 *Studies in Higher Education* 521; Andrew Northedge, ‘Rethinking Teaching in the Context of Diversity’ (2003) 8 *Teaching in Higher Education*, 17.

<sup>83</sup> Sally Kift, Mark Israel and Rachael Field, *Learning and Teaching Academic Standards Project: Bachelor of Laws Learning and Teaching Academic Standards Statement* Australian Learning and Teaching Council 2010, 22.

<sup>84</sup> United Kingdom Quality Assurance Agency (QAA), *Subject Benchmark Statement: Law* (2007) <<http://www.qaa.ac.uk/academicinfrastructure/benchmark/statements/Law07.asp>>, 3 December 2010, at 9 [4.13], cited in Kift et al, *ibid*.

<sup>85</sup> Wingate, above n 81, 395.

<sup>86</sup> Gina Wisker, Jillinda Tiley, Mary Watkins, Sharon Waller and Julian Thomas, ‘Discipline-Based Research into Student Learning in English, Law, Social Work, Computer Skills for Linguists, Women’s Studies, Creative Writing: How Can it Inform our Teaching?’ (2001) 38 *Innovations in Education and Teaching International* 183, 191.

<sup>87</sup> Tamsin Haggis and Mireille Pouget, ‘Trying to be Motivated: Perspectives on Learning from Younger Students Accessing Higher Education’ (2002) 7 *Teaching in Higher Education* 323–336.

<sup>88</sup> Wingate, above n 81, 397.

<sup>89</sup> Robin Boyle and Rita Dunn, ‘Teaching Law Students Through Individual Learning Styles’ (1998) 62 *Albany Law Review* 213

<sup>90</sup> Ruth McPhail, Ron Fisher and Jeanne McConachie, ‘Becoming a successful first year undergraduate: when expectations and reality collide’ (Paper presented at *12th Pacific Rim First Year in Higher Education Conference*, Townsville, 29 June–July 1, 2009) 5.

vulnerability, should be inclusive and integrated into the curriculum. The complexity and busyness of student lives often precludes participation in optional support strategies. Doring et al argue that opportunities to develop self-regulating learning skills and understandings need to be embedded into first year core academic units.<sup>91</sup> An intentional, staged, holistic curriculum is the primary academic and social ‘organising device’ of a successful first year student experience.<sup>92</sup> Thus chances for students to explore, develop and monitor their own learning behaviours need to be woven into their learning in substantive law units rather than be relegated to the margins. This will provide students with more opportunity to develop an internal locus of control over their studies.<sup>93</sup>

### *B Assisting law students to manage workload to learn effectively*

Many students in this study perceived they were working as hard as possible, yet commonly were spending only about 10 hours a week preparing for classes, and many were spending less time than this. A large number said they were overwhelmed, and felt their biggest challenge was keeping up with the workload and grappling with linguistically dense and conceptually complex law readings. As James et al note in their review of 15 years of Australian first year university experience, ‘time on task’ is an important, if blunt, ‘indicator of the quality of learning.’<sup>94</sup> Less time on task encourages surface approaches to learning, and the relationship is reciprocal so that students who take a surface approach to learning perceive that their workload is heavy.<sup>95</sup> The factors that affect student perception of workload are complex and are not exclusively related to class contact hours or preparation time, but are also associated with the curriculum and learning environment, peer and teacher relationships and intrinsic motivation.<sup>96</sup> Low SES first year students across the sector are more likely to perceive workload as heavy and to report they feel overwhelmed by what they have to do.<sup>97</sup> Among law students, a realistic expectation of workload is an important predictor of success.<sup>98</sup> And, as James et al observe, student perceptions of workload ‘say nothing about the quality, intensity and efficiency of their study-related activities.’<sup>99</sup> Two issues are worth exploring in light of these findings: establishing objective measures of law student workload, and assisting law students to work harder and smarter.

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<sup>91</sup> Allan Doring, Bob Bingham and Ann Bramwell-Vial, ‘Transition to University - A Self-Regulatory Approach’ (Paper presented at *Annual Conference of the Australian Association for Research in Education*, Brisbane, Australia, November 30-December 4, 1997) 12.

<sup>92</sup> Sally Kift, ‘A Transition Pedagogy for First Year Learning and Engagement in Law’ Webb et al, *Making a difference: enhancing learning in legal education* (Sense Publishing, 2011) 1.

<sup>93</sup> C A L Pearson and C J Beasley, ‘An Evaluation of an Integrative Framework of Student Characteristics and Learning Approaches’, (paper presented at the *Fourth Pacific Rim - First Year in Higher Education Conference: Creating Futures for a New Millennium*, Queensland University of Technology, Brisbane, 5-7 July 2000).

<sup>94</sup> James et al, above n 4, 101;

<sup>95</sup> David Kember and Doris Leung, ‘Influences upon Students’ Perceptions of Workload’ (1998) 18(3) *Educational Psychology* 293; Anne Macduff and Lynn Du Moulin, ‘New Challenges in Legal Education: Developing an Appropriate Response to the Issue of Student Workload’ (2008) 18 *Legal Education Review* 179, 183

<sup>96</sup> David Kember, ‘Interpreting student workload and the factors which shape students’ perceptions of their workload’ (2004) 29(2) *Studies in Higher Education* 165, 176.

<sup>97</sup> James et al, above n 4, 90-91.

<sup>98</sup> Larcombe, et al, above n 4, 113.

<sup>99</sup> James et al, above n 4, 101.

Students are more likely to adopt a ‘surface’ approach to learning when the course is overloaded, is assessment heavy and emphasises acquisition of discrete facts.<sup>100</sup> If first year law subjects fit this description, then we may be setting students up to learn superficially and strategically at best, and to completely overwhelm them at worst. Objective measures of time taken to complete tasks may assist educators to set appropriate workloads to avoid surface learning in first year. Such measures are important, especially if academics commonly underestimate the time needed to complete learning activities and assessment.<sup>101</sup> There is no common measure of university student workload, but internationally one credit point equates to 10 hours of student effort, and an acceptable subject workload is considered to be about 100 hours.<sup>102</sup> Several investigations have found that full time students spend about 40 hours studying and in class in a typical week.<sup>103</sup> This is consistent with guidelines provided to UWS law school students that they should invest 10 hours per week for each subject, which is 130 hours over a 13 week semester. This work includes pre-reading for class, class contact, completing assignments and revising for exams. If this is correct, then the 40 percent of students in this study who prepare for up to 10 hours weekly for all their law classes, and the 30 percent who allocate up to 20 hours, may be significantly underpreparing. However, their expected workload may be greater than the recommended 130 hours if we consider the real time it is likely to take students to complete all the elements of their learning activities, particularly in their first year when they are not familiar with legal learning tools, concepts or disciplinary conventions.

European educators have developed the GET (Give me Enough Time) model for calculating the average student workload by attaching notional times that it should take a student to complete standard academic endeavours: preparing for and engaging in different methods of learning; research; completing standard assessment tasks; learning how to operate new software; engaging in group work, etc.<sup>104</sup> Using these measures as a guide, the expected workload for students in a first year legal method and history subject is evaluated below in Table 2. As a foundational subject it has an ambitious 13 learning outcomes to assess, including knowledge of development of Australian law and institutions, and understanding legal method, statutory interpretation, case analysis, legal research and research tools, clear legal writing and citation, and group work. The class attendance requirement includes six two hour small group workshops to facilitate the learning

<sup>100</sup> John Biggs and Catherine Tang, *Teaching for quality learning at university* (Open University Press/McGraw-Hill Education, 2007) 22-26; Paul Ramsden, *Learning to Teach in Higher Education* (Routledge/Farmer, 2<sup>nd</sup> Ed, 2003) 80.

<sup>101</sup> For example, in engineering, by 35 percent: Jane Stewart-Lewis and Tony Webb, ‘Student assignment workload: students’ perceptions compared to lecturers’ expectations’ (Paper presented at 20th Australasian Association for Engineering Education Conference, University of Adelaide, 6-9 December 2009) 741.

<sup>102</sup> Alan Fielding, ‘Student assessment workloads: a review’, (Centre for Learning and Teaching, Manchester Metropolitan University, 2008)  
<<http://www.celt.mmu.ac.uk/lta/issue17/fielding.pdf>> 9.

<sup>103</sup> Kember, above n 96, 166; David Kember, Qun Wang Jamieson, Mike Pomfret and Eric TT Wong, ‘Learning approaches, study time and academic performance’ (1995) 29 *Higher Education* 329.

<sup>104</sup> Asko Karjalainen, Katerina Alha and Suvi Jutila, *Give me time to think: Determining student workload in higher education*, (Oulu University Press, 2006),  
<<http://www.oulu.fi/w5w/tyokalut/GET2.pdf>> 40-65.

of legal research and writing skills, additional to the substantive weekly three hour class.

**Table 2: Expected workload for first year legal method and history subject**

Learning activity	Notional hours of learning activity	Expected activity hours
Class attendance = 13 x 3 hr class per week + 6 x 2 hr workshops	Class contact – active learning classes	51
Preparation for class - reading about 30 pages per class of complex text x 13 classes = 390 pages	Reading 100 pages includes browsing through a book, reading, re-reading and note taking: straight forward text = 5-10 hours; complex text = 10-20 hours). <sup>105</sup>	39
Assessment 1: group research task searching for primary and secondary sources to address legal problem, using electronic research tools: 3 people, about 1500 words	Research for task, including developing familiarity with online search tools, trial and error searches, reading results, locating sources and analysing these; <sup>106</sup>	10
	Writing up results (100 words = 1 hour); <sup>107</sup>	5
	Group assessment - generally accepted that group activities require extra coordination and communication, and allowances should be made for these activities (allow 5 hours). <sup>108</sup>	5
Assessment 2: letter of advice to client – individual task using research generated in Assessment 1: 200 words	Written tasks usually 100 words = 1 hour, <sup>109</sup> but this task requires careful drafting and editing to make the advice is precise and concise; Incorporating references using the Australian Guide to Legal Citation: estimate for task = 10 hours.	10
Assessment 3: preparing case note – 2000 words	Reading complex text of reasons for decision (up to 20 pages) at least three times (10 hours), identifying analysing elements of case, writing and editing analysis of case to comply with word limit, referencing = estimate 20 hours	20
Exam – 3 hour: one essay, one statutory interpretation problem	Examination including essay, short-answer and multiple choice based exams and quizzes = 1hr exam + 9 hr preparation per hour of exam. <sup>110</sup>	30
<b>TOTAL NOTIONAL WORKLOAD HOURS</b>		<b>170</b>

<sup>105</sup> There is wide variation among reading time estimates, with adjustments made according to text difficulty, English language competence and metacognitive skills: 5-10 pages per hour: Fons Nouwens, 'Student workload' (1997) cited in W R Kilfoil, 'Determining Workload In Relation To Credits And Notional Hours' (University of South Africa, undated) <[http://www.unisa.ac.za/contents/faculties/service\\_dept/bld/docs/Creditsnotionalhoursandworkload.doc](http://www.unisa.ac.za/contents/faculties/service_dept/bld/docs/Creditsnotionalhoursandworkload.doc)>; 8-20 pages an hour: Tessa Welch, 'A step-by-step approach to estimating learner workload on a distance education programme' (1998) 4(3) *Open Learning through Distance Education* 18; 3-5 pages per hour - Karjalainen et al, *ibid*, 55-56. Of course, reading does not necessarily equate with comprehension.

<sup>106</sup> Karjalainen et al suggests learning a new ICT tool takes 8-24 hours depending on its complexity, *ibid*, 60.

<sup>107</sup> Fielding, above n 102, 12.

<sup>108</sup> Karjalainen, above n 104, 67.

<sup>109</sup> Fielding, above n 102, 12.

<sup>110</sup> *Ibid*, 10.

Even on the basis of notional workloads not necessarily suited to law tasks, nor to the comprehension capacities of first year students, the subject workload is 30percent higher than stated guidelines. First year students cannot be expected to regulate their own learning if workload expectations are unclear or too great. Unless we provide curriculum guidance about where and how students are to spend their energies by devising achievable workloads for first year students, and clearly communicate the time it should take to complete tasks, they will continue to struggle and learn ineffectively.<sup>111</sup> As James et al note, ‘unrealistic expectations of the amount of study time required’, whether created by staff or students, ‘or uncertainty about the standard of work expected inevitably leads to uncertainty, anxiety and potential failure in the first year.’<sup>112</sup>

Whilst objective workload must be evaluated and monitored, workload cannot be reduced at the cost of sacrificing intended learning outcomes. In any event, the students in this research studied much less than recommended hours. Assisting law students to work more efficiently and effectively may also facilitate their pathway through first year. Teachers can help by explicitly discussing their expectations, including about workload and the requirements of full time study, and making clear the relevance of student tasks to broader subject, course and professional objectives.<sup>113</sup> More effective learning can be promoted by explicitly teaching efficient study skills, such as time management, note taking and speed reading.<sup>114</sup> Enhancing engagement and promoting perceptions of ‘good-heavy’ workloads can be achieved through greater subject alignment, active and social learning tasks, and positive student-staff relationships.<sup>115</sup> Doing more with less, such as focusing on in-depth analysis of a smaller number of cases or readings, and promoting the development of cognitive skills also offers promise.<sup>116</sup> As many students in this study recognised, it is ultimately up to students themselves to accept responsibility for working harder *and* smarter and to prioritise their lives accordingly.

### C *Managing expectations about marks and feedback*

The research findings demonstrated a disparity between student beliefs about their own performance and the grades they received on law assessment tasks. Addressing the mismatch by providing appropriate guidance and using exemplars is discussed below, but here we discuss student expectations about feedback. In focus groups, some students indicated that the low marks they received had caused them to seriously question if they were smart enough for law school. This was particularly the case when they were doing a combined degree and were receiving significantly higher marks in subjects from other disciplines. Students said that they had been used to receiving high marks at school, and they found it

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<sup>111</sup> Haggis, above n 82, 525; Fielding, above n 102, 15.

<sup>112</sup> James, above n 4, 38.

<sup>113</sup> Macduff and Du Moulin, above n 95, 195.

<sup>114</sup> Boyle and Dunn, above n 89, 220.

<sup>115</sup> Herbert W Marsh, ‘Distinguishing Between Good (Useful) and Bad Workloads on Students’ Evaluations of Teaching’ (2001) 38 (1) *American Educational Research Journal* 183; Kember, above n 96, 182-83.

<sup>116</sup> Patrick Keyzer, ‘Using “Deeper” Case Method to Introduce Legal Theory and Context’, in Sally Kift, Michelle Sanson, Jill Cowley and Penelope Watson (eds), *Excellence and Innovation in Legal Education* (LexisNexis, 2011) 301.

difficult to accept lower grades at university. Designing and staging assessment to assist first year students to recognise, interpret and usefully apply feedback to become self-regulated learners is a creative and critical challenge for educators.<sup>117</sup>

The disparity between perceptions and expectations of feedback is significant to the overall first year student experience. Meta-analyses of educational research have consistently demonstrated that useful, prompt feedback produces the most significant benefits of all teaching interventions in student learning and achievement.<sup>118</sup> Teachers can support learners through feedback and feed-forward which clarifies good performance, encourages self-assessment, is high quality, encourages student-teacher dialogue about learning, is motivational and positive, assists students to change, and also provides feedback to teachers.<sup>119</sup> Staged assessments in first semester of law school, allowing students to submit a draft for comment with a small assessment weighting, followed by a final version, assist students more than feedback 'after the fact'.<sup>120</sup> Students also need to appreciate that the multiple forms of feedback they receive are in fact feedback: an overall mark, hand written comments on their paper, a marking grid identifying their level of achievement, and consolidated comments on overall cohort performance. An over-loaded first year law curriculum, and the weight of multiple learning outcomes, coupled with increased workload from large classes and multi-campus teaching, limits flexibility in assessment design and the capacity to provide individualised feedback to students, so first year teachers will need to be strategic.<sup>121</sup>

#### D *Making explicit the disciplinary conventions of knowing in law*

Students in this study wanted to know *how* to learn law and to do the assessment tasks they were set. Assisting students to understand *how* to learn legal knowledge and become competent in constructing their own legal knowledge implies that legal educators should shift their focus from the transmission of content knowledge. It also requires that we rethink our approach to developing legal 'skills'. Classes in legal method and writing, and the Socratic case dialogue, the 'signature pedagogy' of law schools for over a century, have conventionally

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<sup>117</sup> David Nicol and Debra Macfarlane-Dick, 'Formative assessment and self-regulated learning: a model and seven principles of good feedback practice' (2006) 31 *Studies in Higher Education* 199; Sally Kift and Kim Moody, 'Harnessing Assessment and Feedback in the First Year to Support Learning Success, Engagement and Retention' (Paper presented at *ATN Assessment Conference*, RMIT Melbourne, 19-20 November, 2009).  
<<http://emedia.rmit.edu.au/conferences/index.php/ATNAC/ATNAC09/paper/viewFile/96/15>>.

<sup>118</sup> John Hattie, *Influences on Student Learning, Inaugural Professorial Lecture* (1999) <<http://www.education.auckland.ac.nz/webdav/site/education/shared/hattie/docs/influences-on-student-learning.pdf>>; Paul Black and Dylan Wiliam, 'Assessment and classroom learning' (1998) 5 *Assessment in Education: Principles, Policy & Practice* 7; Graham Gibbs and Claire Simpson, 'Conditions under which assessment supports students' learning' (2004) 1 *Learning and Teaching in Higher Education* 3.

<sup>119</sup> Nicol et al, above n 117, 205.

<sup>120</sup> Claire Macken and Madeleine DuPuche, *Law Essentials: Foundations in Australian Law, Teacher's Guide*, Thomson Reuters, 2011, 13; Kift and Moody, above n 117; Gibbs and Simpson, above n 118.

<sup>121</sup> Susan Armstrong, Sandii Chan, Janne Malfroy and Rosemary Thomson, *Assessment guide: Implementing criteria and standards-based assessment* (University of Western Sydney, 2008) 39-40.

disaggregated the elements of legal reasoning.<sup>122</sup> If teaching is about enabling participation in knowing, then knowledge arises out of the *process* of knowledgeable people communicating together.<sup>123</sup> Assisting students to understand *how* to learn and construct legal knowledge requires that academics make explicit the discipline's epistemology and the processes by which legal knowledge is 'continually formed, reformed and contested.'<sup>124</sup> These processes are often opaque even to teachers, and may have taken them many years of acculturation to acquire.<sup>125</sup> Haggis suggests a more accessible approach is for academics to articulate what they 'believe in, what it is they want to share with their students, and what they want their students to do.'<sup>126</sup> This process asks teachers to explicitly dissect the complex process of learning and knowing in law – *how* to read, think, question, analyse legal principle, reason inductively and deductively, and think critically, and how to put this understanding together to make a legal argument – and communicate this clearly and creatively to students.

Teachers must also consider how best to assist students acquire these understandings and to provide opportunities to construct their own legal knowledge. The Socratic case method may assist students to dissect legal reasoning, scaffold their understanding of legal principle, and engage them with legal language, but it also poses risks, and its success will depend on the versatility and artistry of the teacher.<sup>127</sup> Legal educators should also be aware that spoken legal language is grammatically complex and has very dense syntactic patterning, making it more difficult for students to follow the discussion and to unravel abstract legal concepts.<sup>128</sup> However the Socratic approach does usefully illustrate the need to embed into substantive law subjects an analysis of legal language, method and knowledge. As noted above, a variety of learning approaches should be fostered.

Unpacking how legal language, rhetorical conventions and discursive practices are used to construct legal knowledge may also make explicit the academic literacies that law students must develop. This requires a 'shift from common sense notions of language as a transparent, neutral medium of communication to more critical understandings of language as social' and epistemological practice.<sup>129</sup> Strategies developed for second language learners of law which

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<sup>122</sup> William M Sullivan, Anne Colby, Judith Welch Wegner, Lloyd Bond and Lee S Schulman, *Educating Lawyers: Preparation for the Profession of Law*, The Carnegie Foundation for the Advancement of Teaching (Jossey-Bass, 2007), 47-86.

<sup>123</sup> Northedge above n 82, 20; Jan Parker, 'A New Disciplinarity: communities of knowledge, learning and practice' (2002) 7 *Teaching in Higher Education* 373.

<sup>124</sup> Haggis, above n 82, 530; Parker, *ibid*, 382.

<sup>125</sup> Cecilia Jacobs, 'On being an insider on the outside: New spaces for integrating academic literacies' (2005) 10 *Teaching in Higher Education* 475-87, 477; Ursula Wingate, Nick Andon and Alessia Cogo, 'Embedding academic writing instruction into subject teaching: A case study' (2011) 12 *Active Learning in Higher Education* 69, 71.

<sup>126</sup> Haggis, above n 82, 533.

<sup>127</sup> Aine Hyland and Shane Kilcommins, 'Signature pedagogies and legal education in universities: epistemological and pedagogical concerns with Langdellian case method' (2009) 14 *Teaching in Higher Education* 29; Jenny Morgan, 'The Socratic Method: Silencing Cooperation' (1989) 1(2) *Legal Education Review* 151; Sullivan et al, *Educating Lawyers*, above n 122, 62-71; Bromberger, above n 22.

<sup>128</sup> Barbara Kamler and Rod Maclean, "'You Can't Just Go To Court And Move Your Body": First-Year Students Learn To Write And Speak The Law' (1996) 3 *Law Text Culture* 176, 189.

<sup>129</sup> Kamler et al, *ibid*, 207.

require actively engaging with and reconstructing legal text and genre provide useful models.<sup>130</sup> Teacher awareness of the ways in which language and text construct legal knowledge may assist them to help students improve their legal comprehension, analysis and writing. As noted above, it is important to embed into substantive law subjects opportunities for students to construct legal genres by, for example, integrating writing tasks into classroom activities, rather than as extra-curricular supplementary assistance.<sup>131</sup> It is possible to achieve this goal without necessarily sacrificing substantive content.<sup>132</sup>

Exemplars have also been shown to make concrete *how* law students are expected to reproduce legal knowledge. The students in the present study wanted more guidance about how to do law assessment – they ‘*knew the rules but hadn’t had any practice to see how the answer should be structured.*’<sup>133</sup> Providing students with detailed rubrics or instructions, whilst necessary, is not sufficient. First year law students given the opportunity to apply rubrics to exemplars of a legal letter writing task tended to internalise the assessment standards and expectations.<sup>134</sup> Writing a letter of legal advice requires students to make a transition ‘from writing about the law to writing within the law. In writing the letter, students come for the first time to the law positioned as participants in the adversarial world of law.’<sup>135</sup> Exemplars of letters provided concrete illustrations of the style of language and structure expected (and not expected) in a good assignment, and students used them as ‘templates’ to structure their own work. Students who were involved in practical class activities to mark the exemplars according to the rubric of standards, and who participated in teacher-led discussion to discriminate and justify the different grades awarded, better understood the task and also achieved higher grades.<sup>136</sup>

### *E Ensuring opportunities to develop learning relationships*

Students in this study said their peers and teachers made the biggest difference to their transition. This affirms what we know already about the academic importance of providing opportunities for students to form social connections and to work collaboratively with others. It also confirms the important role played by teachers in student learning and transition in first year. Tinto has identified

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<sup>130</sup> Nigel Bruce, ‘Dovetailing Language and Content: Teaching Balanced Argument in Legal Problem Answer Writing’ (2002) 21 *English for Specific Purposes* 321; Christopher N Candlin, Vijay K Bhatia and Christian H Jensen, ‘Developing legal writing materials for English second language learners: problems and perspectives’ (2002) 21 *English for Specific Purposes* 299; Simon Harris, ‘Procedural Vocabulary in Law Case Reports’ (1997) 27 *English for Specific Purposes* 289; Jane Lung, ‘Discursive hierarchical patterning in Law and Management cases (2008) 27 *English for Specific Purposes* 424.

<sup>131</sup> Wendy Larcombe and Ian Malkin, ‘Identifying students likely to benefit from language support in first-year Law’ (2008) 27 *Higher Education Research & Development* 319.

<sup>132</sup> Wingate, et al, above n 125, 77.

<sup>133</sup> UWS Law Student Focus Group 1, 20 May 2009, Transcript, 9.

<sup>134</sup> Graham Hendry, Nikki Bromberger and Susan Armstrong, ‘Constructive guidance and feedback for learning: the usefulness of exemplars, marking sheets and different types of feedback in a first year law subject’ (2011) 36(1) *Assessment & Evaluation in Higher Education* 1, 6.

<sup>135</sup> Kamler, above n 128, 197.

<sup>136</sup> Graham Hendry, Susan Armstrong and Nikki Bromberger, ‘Implementing standards-based assessment effectively: Incorporating discussion of exemplars into classroom teaching’ (2012) 37(2) *Assessment & Evaluation in Higher Education* 149.

strategies to support learning and encourage students to actively share in their learning as critical to first year success.<sup>137</sup> He suggests that one way to achieve these objectives is to develop learning communities based on a collaborative pedagogy. Peer tutors who act as mentors for new law students in their learning journey may assist to foster a collaborative and critical approach to the study of law and to create a sustainable community of learners.<sup>138</sup> Formal and informal social and learning-related strategies embedded in the first year curriculum to address student learning challenges as they happen, enhances staff-student interaction and learning capability and promotes engagement.<sup>139</sup> The contributions of co-curricular activities to law student satisfaction suggest that there is a real synergy – rather than a trade-off or conflict – between the academic and social aspects of law school.<sup>140</sup>

Harvey et al concluded that the most powerful way to support student transition was to facilitate student-teacher and inter-student interactions as part of a holistic promotion of quality teaching and learning.<sup>141</sup> This recommendation identifies the significant but often under-rated role of the teacher in curriculum design and implementation, and ultimately in student learning. Hattie’s meta-analysis of school educational practice indicates that whole of class interactive teaching was the strategy (after feedback) most likely to create significant effects on student learning.<sup>142</sup> This pedagogy is highly structured, teacher-led, but student-active and interactive, and draws on a suite of strategies to frame, encourage, model, monitor, extend and assist students to practice, and ultimately construct their learning.<sup>143</sup> University students in this study and across the sector identify their teachers as playing a critical role in facilitating learning, encouraging retention and enhancing the overall student experience.<sup>144</sup> The discussion of first year student workload above implies that teacher workload in supporting first year teaching and transition may also be underestimated. The special demands of first year teaching need to be acknowledged, resourced and rewarded, as part of the overall approach to teaching and supporting first-year students.<sup>145</sup> Ultimately however, students in this study wanted their teachers to be more responsive, more flexible and more understanding. This is consistent with conclusions that ‘teacher empathy, demonstrated interest in students as individuals and respect for students

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<sup>137</sup> Tinto, above n 12, 6.

<sup>138</sup> Dominic Fitzsimmons, Simon Kozlina and Prue Vines, ‘Optimising The First Year Experience In Law: The Law Peer Tutor Program At The University Of New South Wales’ (2006) 16 *Legal Education Review* 99.

<sup>139</sup> Claire Macken, ‘A lecturer’s toolbox: a “just-in-time” approach for high quality first year student experience’ (Paper presented at *12th Pacific Rim First Year in Higher Education Conference 2009*, Townsville, Australia, 29 June – July 1, 2009).

<sup>140</sup> Law School Survey of Student Engagement (LSSSE), *Student Engagement in Law School: In Class and Beyond* (Indiana University Center for Postsecondary Research, 2010) 13.

<sup>141</sup> Harvey et al, above n 5, 138-9.

<sup>142</sup> Hattie, above n 118; Geoff Petty, *Evidence based Teaching: A Practical Approach* (Nelson Thornes, 2009) 65, 103.

<sup>143</sup> Petty, *ibid*, 105-111.

<sup>144</sup> AUSSE, above n 3, 7.

<sup>145</sup> Kerrie-Lee Krause, ‘On Being Strategic about the First Year’ (Keynote presentation to *Queensland University of Technology First Year Forum*, 5 October 2006); Armstrong et al, above n 11, 145.

are important factors in students' academic and social engagement.'<sup>146</sup> If we are to improve first year learning in law, particularly for equity and non-traditional students, legal educators must be flexible in their response to new law students, understand the challenges they face and recognise the importance of engaging with them as individuals.<sup>147</sup>

## V CONCLUSION

The results of this research provide some useful guidance about how legal educators might promote the successful transition of diverse student cohorts. Optimising support for diverse cohorts of first year students will be increasingly important in the context of widening university participation by disadvantaged people. Three general conclusions may be drawn from the research findings. None is new, but all bear repeating.

Firstly, the study reaffirms the importance of fostering student capacity to become independent and effective learners in their own disciplinary context. Legal educators must re-examine what it means to learn in law, and assist students to understand this through opportunities embedded in the curriculum. It also means we need to carefully stage and scaffold the development of student competence in the disciplinary conventions of knowing, thinking and communicating like a lawyer. The students in this study provide very pointed advice about what they wanted. Whilst some suggested less work, most asked for greater consistency, clarity, structure and specificity about, and opportunity to practice, what they need to do as a law student, and more empathy and flexibility when they fell short.

Secondly, and linked to the first point, the study suggests that legal educators should critically evaluate the workload they create for students to ensure it promotes deep and not surface learning. Strategies must also be developed to assist students to work more effectively and efficiently in the time they have available for their law studies. The key for law teachers then, is to assist their first year students to work harder *and* smarter, and to design workloads that are achievable in the real lives that students lead, without compromising quality outcomes.

Lastly, the study findings underscore the importance of relationships to successful academic transitioning in first year university: with peers and with teachers. This requires that opportunities for fostering peer relationships and communities of learning are provided to students. It also means that teachers of first year students are given sufficient guidance and support to structure the kind of assistance that students say they need to learn effectively. In this way we can assure first year law students successfully transition from confusion to confidence in their journey through law school.

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<sup>146</sup> James et al, above n 4, 8; see also Paul Ramsden, 'Six principles of effective teaching in higher education', <<http://paulramsden48.wordpress.com/2011/03/10/six-principles-of-effective-teaching-in-higher-education/>>.

<sup>147</sup> Elizabeth Stevens, Heather Douglas, Bridget Cullen-Mandikos and Rosemary Hunter, 'Equity, Diversity and Student Engagement in a Law School – A Case Study Approach' (2006) 16 *Legal Education Review* 1; Armstrong et al, above n 11.