Abstract

This paper explores the use of assessment methods in law modules which explicitly value and encourage creativity and innovation. It does so in the context of the SQE and argues that the type of learning and teaching likely to be promoted by this 'super exam' is the exact opposite of the deep learning and critical thinking that Higher Education should foster. The paper draws on some of the recommendation of LETR and a service review evaluating the introduction of poster presentations as a replacement for an MCQ test as an assessment method into the Medical Law module at Leeds Beckett University and highlights the value of encouraging creativity in order to foster a wide variety of valuable skills

The SQE and Creativity: A Race to the Bottom?

Introduction

Professional, as well legal education and training, is undergoing a profound shift. Driving this shift, is the approach to legal education which is perhaps best characterised as a liberal arts education versus professional preparation[1] or more contemporaneously, instrumental versus non-instrumental learning.[2] Moreover, it is this debate which can be seen to play itself out in the recommendations of Legal Education Training Review (LETR),[3] ironically commissioned by the Solicitors Regulation Authority (SRA),[4] and which have been swept aside by the SRA, in favour of a more instrumental approach to teaching and learning law, as evidenced by the proposed introduction of the Solicitors Qualifying Examination (SQE). [5] Before continuing, it is important to note that it is not the remit of this paper to provide an overarching critique of the SRA proposals, indeed this has been undertaken by others.[6]

[1] http://letr.org.uk/the-report/executive-summary/executive-summary-english/index.html. Accessed 1.08.2018, para 2.50 at table 2.1.
[2] J. Guth, T. Hervey, (2018): Threats to internationalised legal education in the twenty-first century UK, The Law Teacher, pp 1-21 https://doi.org/10.1080/03069400.2018.14633035. Accessed 01.06.2018. Guth, C. Ashford, (2014) The Legal Education and Training Review: regulating socio-legal and liberal legal education?, The Law Teacher, 48 (1): 5-19, at 7. https://dx.doi.org/10.1080/03069400.2013.875304. Accessed 01.06.2018.
[3] (n 1).
[4] ibid.
[5] https://www.sra.org.uk/sra/consultation/solictors-qualifying-examintion. Accessed 1.08.2018. Note that the Bar Standards Board have not gone down this route, https://www.barstandardsboard.org.uk/qualifying-as-a-barrister/future-requirements/future-bar-training. Accessed 1.08.2018.
[6] J. Guth, T. Hervey, (n 2).

Instead, the aim of this paper is to draw upon the findings of a service review of the year 2 Medical Law and Ethics elective offered at Leeds Beckett University, and in particular component 1 of the summative assessment, which had recently changed from multiple-choice questions (MCQs), to individual poster presentations. As part of this process, a brief overview of the elective will be provided, the rationale for the MCQs outlined, and the rationale for the subsequent switch to posters explicated. Once complete this paper will then seek to draw upon some of the findings and recommendations of LETR, before submitting that the proposed SQE changes, specifically the so called Super Exam or SQE 1,[7] with its focus on instrumental learning, in essence superficial or functioning legal knowledge and learning, is diametrically opposed to the non-instrumentalist approach to learning that students want, which is to be able to engage with the law in a critical, creative and reflective way, to be involved in the learning process and to explore why the law is what it is. In light of this it is submitted that despite the wishes of students to explore the law and to engage with it in a critical and reflective manner, the promotion of SQE 1 by the SRA, not only denies them of this opportunity, it also rejects the knowledge and skills the profession itself promoted via LTER. [8]

Overview of Medical Ethics and Law at Leeds Beckett University

The Medical Law and Ethics elective has been delivered at Leeds Beckett University for approximately 10 years. During this time, the module has evolved as a result of legal change and student feedback. Originally a year three module, the elective was moved to year two, two years ago. The rationale for the move being that it would provide students with a richer elective choice, whilst serving to challenge them, i.e., to contemplate the law in its wider social setting, why law is it what it is, rather than the doctrinal approach that permeates first year, which is simply what the law is.[9] As part of this move and in line with

[7] https://www.sra.org.uk/sra/policy/training-for-tomorrow/SQE-Blog/Using-multiple-choice-questions-in-legal-education.page. Accessed 1.08.2018.
[8] (n 1) Somewhat paradoxically, despite the view of the SRA, the 26 recommendations promulgated by LETR, refer explicitly to practice preferences, with some implications for Undergraduate Education.
[9] F. Cownie, A. Bradney, Socio-legal studies a challenge to the Doctrinal approach in D. Watkins, and M. Burton, *Research Methods in Law* (Routledge 2013) at 31, B. Z. Tamanaha, *Realistic Socio-Legal Theory: Pragmatism and Social Theory* (OUP 1997) at 7, M. Salter, J. Mason, *Writing Law Dissertations*, (Pearson 2007) at 39, and is a rationale which can be seen to resonates with J. Guth, C. Ashford, (n 2) at 7,

University drivers, the assessment regime was changed to two points; the elective thus had two components of assessment resulting in a 30/70 split. The rationale for this further change was the view that two points of assessment would spread the assessment burden, allow students to bank some early marks and therefore improve student confidence. Whilst this componentisation was imposed, the means of assessment was left to the module team to determine, who decided to undertake an MCQ for component 1, e.g. the 30% component. The plan was to deliver the MCQ, using the inhouse electronic platform called MyBeckett.[10] It should be noted that the teams' choice of MCQ, was not driven by proposed SRA changes, but simply pragmatism. MCQs had been used on other modules in the past at year 1 and 2. One of the medical law team was experienced at writing MCQs for the legal practice course, whilst the use of MyBeckett would render the process self-marking, and therefore less labour intensive in the long term.[11] Although the process of front loading, i.e. developing and preparing the lectures and workshops during annual leave serves to undermine that argument, at least from a staff perspective.

Importantly, from a student perspective we felt that the use of MCQs would provide timely feedback,[12] therefore negating critiques based upon delayed comments.[13] Importantly, given the immediacy of response, it was proposed that the ability of the students to reflect on their answers, e.g. was it right or wrong, would facilitate improved student performance.[14] Moreover, this process of self-reflection is a pre-requisite of the Law Benchmark Statements, for example, 2.4. (ii)… an ability to reflect on their own learning, make effective use of feedback, a willingness to acknowledge and correct errors…[15]

[10] Note this is simply the Leeds Beckett version of Blackboard.
[11] P. Race, *The Lecturers Tool-Kit* (3rd edn, Routledge 2009), at 47.
[12] J. Biggs, (1996) Enhancing teaching through constructive alignment. *Higher Education*, 1-18. J. Biggs and C. Tang, *Teaching for Quality Learning at University*, (4th edn, OUP 2011), (n 12) at 36, G. Brown, J. Bull, M. Pendlebury, *Assessing Student Learning in Higher Education* (Routledge 1997), at 4.
[13] P. Ramsden, *Learning and Teaching in Higher Education*, (2nd edn Routledge Falmer 2003).
[14] J. Selby, P. Blazey, and M. Quitter, (2008), The Relevance of Multiple Choice Assessments in Large Cohort Business Law Units, *Journal of the Australian law Teachers Association*, 1(1-2), 203-212.
[15] http://www.qaa.ac.uk/en/Publications/Documents/SBS-Law-15.pdf. 2.1., at 7. Accessed 28.07.18

It must be noted that although there are various criticisms regarding the use of MCQs, in particular they encourage surface or instrumentalist learning,[16] rather than deep or non-instrumentalist learning.[17] It was felt that given the in-house experience and the students own experience of MCQs, that well written MCQs, constructively aligned with the module learning outcomes,[18] and supported by 'feeding forward,' would encourage deeper learning and assist in the development of what Biggs and Tang refer to as higher order learning.[19] For the sake of clarity, whilst there is no clear definition of 'feeding forward,' the process can be seen to consist of commentary not simply with regard to what has been done, but also what can be done next.[20] A view which resonates with Hine and Northeast, who add that it consists of feedback either post assignment with more specific direction with regard to future application, or feedback that can impact upon forthcoming assignments.[21] Feeding forward, can thus be seen to emphasise not only feedback given ex-post facto, but feedback that has a future orientation, therefore affording the student the opportunity to learn and if they think it necessary, to change, to transform.[22]

In the context of the Medical Law and Ethics module, it was agreed that the use of feeding forward would be implemented within the lectures. At the end of each lecture for instance, a topic would be summarised and a selection of MCQs provided for discussion and formative feedback.[23] As part of this process, the parameters of the MCQ were made clear, e.g. that they would cover the first 6 weeks of study, encompassing ethical principles, rationing, consent and include a revision week. In terms of the ethical principles, key

[16] J. Selby, P. Blazey, and M. Quitter, (2008), The Relevance of Multiple Choice Assessments in Large Cohort Business Law Units, *Journal of the Australian law Teachers Association*, 1(1-2), 203-212, J. Guth, T. Hervey, (n 2)
[17] (n 11). J. Guth, T. Hervey, (n 2)
[18] Given the fact that constructive alignment underpins all University Curricula, I have not developed it further here and have taken it as a given, but please see (n 13), R. Winter, (2003) Contextualising the Patchwork Text: addressing problems of coursework assessment in higher education. *Innovations in Education and Teaching International,* Special Issue vol 40. 2. 1-22, as some examples of the discussion.
[19] J. Biggs, C. Tang, *Teaching for Quality Learning at University: What the Student Does* (4th edn 2011 OUP).
[20] (n 11) at 74.
[21] B. Hine, T. Northeast, Using Feed-Forward Strategies in Higher Education, *New Vistas*, Vol 2, Issue 1. www.uwl.ac.uk. At 29. Accessed 28.07.2018.
[22] G. Brown, J. Bull, M. Pendlebury, (n 12) at 4.
[23] Ibid at 4, E. Barnett, N. McNamara, (2012) Supporting Learning in Law: Using Formative MCQ Assessment in Criminal Law Core Courses, *International Journal of Organisational Behaviour*, vol 17(2): 72-86, J. Biggs and C. Tang, (n 13).

principles were identified, for example principlism,[24] relational autonomy,[25] explained and then later contextualised in each topic, thus revealing the inherent tensions that exist within legal decision making between ethics, policy and practice. As indicated earlier, utilising the work of Biggs and Tang, all the materials were constructively aligned.[26] In essence students were provided with opportunities in lectures and workshops, to establish, test and develop their knowledge through the use of formative and peer review feedback.[27] Finally, as one would expect the completed module materials and assessments were internally reviewed by the team, the principle lecturer for quality and the external examiner and any comments addressed.

The format of the MCQs drew upon the structure used on the Legal Practice Course (LPC) at Leeds Beckett University. Starting with straightforward questions with one answer, to questions with a greater degree of complexity, in other words more than one answer. Please see an example of the questions in appendix A. The structure of the questions therefore allow the testing of simple knowledge, i.e., what the law is, but as they progress in complexity they required students to have a deeper understanding of the key ethical, legal and policy issues that drove the courts response, arguably revealing in the process why the law is what it is. In terms of the assessment itself, students were required to answer 15 questions in 40 minutes, this works out at 2.66 minutes per question, with some clearly being quicker to answer than others. This is important because according to the SRA, the MCQ for SQE 1 will be 3 minutes per question, and one assumes of similar structure.[28]

In the context of the Medical Law MCQ, 134 students were eligible to undertake component 1 of these 113 did so, or 84.32%. Twenty one students deferred the sit, or simply did not

[24] T. L. Beauchamp, J. F. Childress, *Principles of Biomedical Ethics* (5th edn OUP 2001), Doug Morrison, (2005) A holistic approach to clinical and research decision-making: Lessons Learned from the UK Organ Retention Scandals, *Medical Law Review*, volume 13, issue 1, 1 March 2005, 45-79. http://doi.org.10.1093/medlaw.fwi003.

[25] C. Gilligan, *In a Different Voice* (Harvard University Press 1982), C. Mackenzie, N. Stoljar (eds) *Relational Autonomy Feminists Perspectives on Autonomy, Agency and Social Self* (OUP 2006)

[26] (n 13)

[27] (n 13), A. Irons, *Enhancing learning through formative assessment and feedback* (Routledge 2008) at 7, M. Crotty, *The Foundations of Social Research: Meaning and Perspective in the Research Process* (Sage 2012), G. Brown, J. Bull. M. Pendlebury, (n 13) at 7.

[28] https://www.sra.org.uk/sra/consultation/solictors-qualifying-examintion. Accessed 1.08.2018.

engage with this component of assessment, which equates to 15.67%. The MCQ was undertaken in exam conditions and took place in the scheduled workshop time. As part of the assessment brief, students were made aware prior to the workshop that once they had logged on the MCQ would begin, the questions would be generated randomly and the assessment could not be stopped. Furthermore, they were informed that they could use their own laptop or tablet, but that IT services had been contacted and that enough laptops had been booked out to cover the sessions.

Once the assessment was complete we reviewed the marks before releasing them, again, the students knew we were going to do this. Overall, the results where variable and not at all what we had expected given the scaffolded [29] approach to learning, the feeding forward, and the formative opportunities that had been embedded within the module as part of the assessment preparation. Whilst there were a number of firsts and 2.1's the overall picture with regard thirds and fails was unexpected. The latter worked out at 28% of the cohort, which was not acceptable based on the results of other modules which had not used MCQs as a means of summative assessment for year 2, But did reflect some of the criticisms surrounding MCQs per see.[30] During this time the members of the medical law team were receiving verbal feedback from the students. This anecdotal feedback coalesced around three core themes. The length of time was too short; they wanted a longer time frame to undertake the assessment, although what time frame was not expressed. Some reported that the subject areas were too narrow. That the assessment was fine for those students with good memories.[31] That the means of assessment did not allow them to express themselves. These themes were also reflected in the end of year module feedback. Whilst it is clear that the evidence was anecdotal, it is argued that the feedback must be viewed as authentic. They had previous experience of MCQs, during year 1, they had undertaken the elective out of choice, were in the main engaged and enthusiastic, and familiar with legal

[29] M. Crotty, (n 28), (n 13).
[30] Most critiques are interdisciplinary, see M. Paxton, (2010) *A Linguistic Perspective on Multiple Choice Questioning,* Assessment and Evaluation in Higher Education, pp 109-119, https://doi.org/10.1080/713611429. Accessed 08.08.2018.
[31] This reflects the instrumentalist approach which is not isolated to law, see M. Paxton, (n 31), who recognises and seeks to reject this view. Indeed, the irony is that the positivist or scientific paradigm which can be seen to influence and arguably underpin law has been found to be flawed with the recognition of the post positivist paradigm as articulated by physicists such as Werner Heisenberg and Niels Bohr.

language. Therefore it is concerning that despite the best efforts of the teaching team in developing the lectures, workshops etc., the results and feedback were not expected and demonstrated what has been called an 'instrumental' approach to law,[32] which was not what was neither envisaged or desired. In light of such experiences, it is hoped that the SRA'S approach to SQE 1 and the so-called Super Exam, can obviate such problems, especially given the assessment will be aimed at non- law graduates, articulated in a language that may well be alien, and cover yet to be decided topics.

Individual Poster Presentations

Reflecting on student feedback it was determined that any revised component of assessment must be capable of encompassing the students desire to be creative, encourage student immersion in the subject, and enable them to be confident enough to bring their own interpretation of the law to the process. This latter point is extremely important, because in responding to LETR, one academic although referring to the LPC noted that in the context research skills and digital literacy, that students need to be aware, 'that you might not find the answer to a question. It might be that there is no answer. And how to deal with that is something which we don't really equip students for, I think.'[33] This degree of frankness is refreshing and reminds us that we are educating students to identify legal problems, explain said problems, and resolve them if and where possible.[34] Moreover, it reminds us that any attempts to provide a neat solution or solutions which is in essence what SQE 1 promotes, omits not only reality, but the also the complexity of social relationships. Yes, some can be resolved in this way, but we do not need law students for that, what we need are algorithms, a view which resonates with Susskind, who has prophesised the negative impacts Information Technology (IT) will have on the provision legal services, from the flight of knowledge and social capital, to the reduction and increased specialisation of legal services. [35]

[32] J. Guth, T. Hervey, (n 2).
[33] (n 1) paragraph 2.99. Accessed 1.08.2018.
[34] Ibid, paragraph 2.78, table 2.5. Accessed 1.08.2018.
[35] J. Susskind, *The Future of Law: Facing the Challenges of Information Technology*, (OUP 1996), J. Susskind, *The End of Lawyers? Rethinking the Nature of Legal Services*, (OUP 2010), http://letr.org.uk/the-report/executive-summary/executive-summary-english/index.html. Specifically the Introduction. Accessed 1.08.2018.

Given the above points the team took time to reflect and reviewed the various modes of assessment that could be undertaken. After researching the various options and drawing on the one of the teams own experience we adopted the use of individual poster presentations. The rationale for their adoption is that like MCQs, individual poster presentations provide fast feedback of results,[36] however, unlike MCQs; they not only enable students to construct their own knowledge,[37] but allow them to demonstrate creativity, reflect upon their learning and engage in real life issues. [38] Moreover, individual poster presentations provide students with the opportunity to develop or build upon what Cottrell refers to as 'transferable and soft employment skills.'[39] Such skills it is argued not only make the assessment more meaningful for the student, i.e., they can see the real-world connections,[40] but they also satisfy the QAA benchmark statements for law, which indicates that graduating students are; "far more than a sum of their knowledge and understanding, and is a well skilled graduate with considerable transferable generic and subject-specific knowledge, skills and attributes."[41] Thus far from being instrumental,[42] it is argued that the use of poster presentations in the words of Guth and Ashford, enable students to think "about 'stuff' rather than knowing 'stuff.'"[43] Indeed, it is proposed that it provides them with the opportunity to disseminate their own findings and ideas, enhance their communications skills, provide a showcase for transferable real-world skills,[44] and the opportunity to "call their minds their own."[45]

In light of this, the structure of the medical law module was re-written to facilitate the change in the assessment. For example, a lecture on poster design was incorporated,

[36] J. Biggs, (n 13), J. Biggs and C. Tang,(n 13) at 216.
[37] (n 13), M. Crotty, (n 28).
[38] http://www.qaa.ac.uk/en/Publications/Documents/SBS-Law-15.pdf. 2.1. at 7. Accessed 28.07.18.
[39] S. Cottrell, *Critical Thinking Skills, Developing Effective Analysis and Argument* (2nd Edn Palgrave Macmillan 2011) at 40.
[40] ibid.
[41] (n 39) at 4. Accessed 28.07.18.
[42] Citing Rust, R. Winter, (n 19) at 113, proposes that they can lead to surface or instrumental learning.
[43] J. Guth, C. Ashford, (n 2) at 7.
[44] (39) at 4. Accessed 28.07.18
[45] Citing, M. Nussbaum, in J. Guth, C. Ashford, (2014) The Legal Education and Training Review: regulating socio-legal and liberal legal education?, The Law Teacher, 48 (1): 5-19, at 7.

examples provided and via feeding forward[46] the assessment process outlined, i.e. the format, size and length of the presentation, which was 10 minutes was made clear. In addition, workshops provided the opportunity for students to undertake a formative poster presentation and to clarify any issues. As part of this process, the marking criteria was explained, the process of constructive alignment made clear,[47] whilst the assessment itself was released in week one assessed in week five. The release of the assessment in week one caused some consternation, but only insofar, that the students where under the misapprehension they could not discuss this with their peers for fear of being accused of plagiarism or collusion. Once it was clarified that a general discussion was not plagiarism or collusion, they were much happier. The only other point the team made clear was that the response to the question was to be determined by the student. In other words they were to use ethical and legal sources to argue their own position, thus reminding us that there arguably is no right answer.

The poster presentation question was

'The right to reproductive freedom is an absolute right.'
What are the ethical and legal issues raised by this proposal?

On the day of the presentation, the students approached the question and the poster in a variety of ways. Some students used images combined with key words or phrases, others utilised mind-maps, others stuck National Health Service leaflets to their posters, whilst some were heavily text focussed, in essence reproducing a fragmented essay in poster form. Furthermore, as part this process, some students adopted a broad approach to the question, whilst others sought to focus on areas or issues that they were interested in or were important to them. Once completed, the team felt that the adoption of these approaches by students added a level of authenticity to the assessment by providing the students with the means and opportunity to interpret and articulate their understanding of

[46] (n 22) at 29.
[47] G. Brown, J. Bull. M. Pendlebury, (n 13), J. Biggs and C. Tang, (n 13), R. Winter, (n 19).

the legal issues under discussion, and reminding them that despite some views, [48] law is an art not a science, with deduction only being one aspect of the investigatory approach. Indeed the influence of religion and social policy in medical law cases such *MacFarlane v Tayside Health Board*,[49] where the claimant was seeking damages for wrongful birth, are articulated implicitly. Indeed in *MacFarlane,* Lord Millet proposed that,

> [I]f the law regards an event as beneficial, plaintiffs cannot make it a matter for compensation merely by saying that it is an event they did not want to happen. In this branch of the law at least, plaintiffs are not normally allowed, by a process of subjective devaluation, to make a detriment out of a benefit.[50]

This position it is argued serves to remind the fledgling lawyer that law is far from simplistic, indeed the approach of the House of Lords provides a timely reminder that law is both socially, and normatively constructed, a position which leads credence to students own subsequent interpretation.

Finally, we realised that allowing the students to define their own approach to the assessment, and the opportunity to articulate it, had provided them with a voice Overall, the approach, in terms of creativity and knowledge expressed by the students surpassed our expectations. The cohort marks increased significantly, there were no fails, although there were six students who deferred the sit. What was apparent, was that unlike the MCQ, this assessment had allowed the students to be creative, to express their legal knowledge and to "call their minds their own."[51] Viewed from the teams perspective, the adoption of a non-instrumentalist rather than an instrumentalist approach had been a clear success, we had developed confident and legally knowledgeable students.

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[48] This scientific or legal positivist approach is reflected in various works, see H.L.A Hart, *The Concept of Law* (Clarendon 1994); H. Kelson, *Pure Theory of Law*, (The Lawbook Exchange Limited 2005); W. Twinning, D. Miers, *How to Do Things with Rules* (5th edn Cambridge Law in Context 2010); W. G. Morse, (1923) Law as a Science, *Law and Justice*, Vol. 10, No. 3. https://www.jstor.org/stable/1171799. Accessed 20.07.2018.

[49] *MacFarlane and another v Tayside Health Board* [1999] 3 WLR 1301.

[50] Ibid at 1346

[51] Citing, M. Nussbaum, in J. Guth, C. Ashford, (n 2) at 7.

Module reflections

Given our previous experience with the MCQ and in light of the revised assessment process, we wanted to determine, results aside, what the students experience of the individual poster presentation had been. To seek to capture this we undertook what could be best described as a service review [52] of the assessment. It must be made clear that this was not a systematic research study, but simply a means of capturing reflections and comments on an assessment that was out-with the standard University module feedback questions. Although, it was a service review, we did want to avoid students feeling obliged to respond. Therefore, to avoid any perception of duress, we undertook the review in the following semester, so the marks had been through exam board. The questions were semi-structured in nature and focused on the student's perceptions of the poster presentation process, i.e., likes dislikes, ability to express their knowledge using that medium and whether the assessment was valuable to them. The questions used are presented below.

1. From your perspective, what did you like about this process of assessment?
2. Again, from your perspective what did you dislike about this process of assessment?
3. Did you think the process helped or hindered your ability to express your knowledge and could you tell us why?
4. Did you find the process of value?
5. Would you undertake another legal subject of the individual poster presentation was a component of assessment and if so why?
6. If we continue with Posters as a means of assessment, is there any way in your opinion how we could improve the assessment process?

The students were identified by our law admin colleagues who generated a module list based upon student ID only. From this list, 10 students were sent the questions and asked to respond if they felt comfortable to do so. We received five responses, although stupidly the requests were sent during the final exam period before summer break. Regardless

[52] Service Reviews are undertaken as a means of involving clients in feedback and improving the provision of a set service or services, see their use in healthcare for example, https://www.bma.org.uk/-/media/files/pdfs/.../welshcoucilservicereviewpaper.pdf. Accessed 07.08.2018.

those that responded provided limited but none the less interesting feedback, which going forward would benefit clearly benefit from empirical work. That aside, please see some examples of feedback both positive and negative to the various questions.

Question 1 asked the students to consider from their perspective what did they like about this process or assessment. The fact we asked what they liked, logically did not exclude what they did not like. Interestingly students responded that whilst the use of a poster presentation was initially challenging, the assessment was a breath of fresh air. It offered the students the opportunity to be creative, to develop their own understanding of the legal issues and to present their response in a way that they could engage or articulate. It allowed them the freedom to think and realise that there was not simply one answer.

In contrast question 3 asked the students to consider what had helped or hindered their ability to express themselves. In asking this question we were seeking to not only seek a response, but also to highlight any false responses where possible with question one. Overall, the response was positive, students commented that posters allowed them to express their legal knowledge, they felt involved, they could construct and express their own understanding, utilise different means of expression, i.e. images, diagrams, key concepts, manage their time, and afforded them the ability to stand out from the crowed.

It is proposed that whilst such responses are clearly limited, they do provide a snap shot or arguably a case study,[53] not only of the student experience but also what the students found valuable in the process. Moreover, their experiences align with the learning outcomes of the module and the skills ranked as important by legal service providers, communicating in person, identifying legal problems, explaining legal matters and solving legal problems, [54] and are the means by which the specificity of legal knowledge are articulated.[55] Taking the argument one-step further, it is submitted that the competencies promulgated by LETR, reflect the academic stage of study combined with real life

[53] This is an analogy, but for those interested in case studies as a method see, R. K. Yin, *Case Study Research Design and Methods*, (3rd edn Sage 2003), R.E. Stake, *The Nature of Qualitative Research, The Art of Case Study Research* (Sage 1995).
[54] (n 1) paragraph 2.78, table 2.5. Accessed 1.08.2018.
[55] Ibid, paragraph 2.78, table 2.5. Accessed 1.08.2018.

application, i.e., substantive legal knowledge applied to social reality.[56] To adopt the words of LETR, viewed in this way the standards are being constructed by the community to whom they apply,[57] in this context law students. The same cannot however be said of the MCQ, which far from engendering creativity served to stifle it, feedback reflected its disabling rather that enabling aspects and did not serve the community to whom it was being applied. For the sake of balance there are criticisms

For the sake of balance however, there were some negatives, in asking the question what did students dislike about this process of assessment? Students responded with it 'would be good if part of the workshops were dedicated to approach and the skills required to undertake a poster presentation.' Although it must be noted, we spent two lectures on this. There was also a concern that there may be too much focus on style rather than substance, but this ignored the fact that we could ask follow up questions on the day. Some felt that a variety of topics would be useful rather than one, but time constraints are cleary an issue here, but going forward, we are now asking student to indicate a substantive human right they would like to present, and is being frontloaded this semester with an overview of the Human Rights Act 1998. Overall, these points in some respects were surprising, but we are seeking to address them moving forward.

Conclusion

Overall, it is submitted that based on student feedback (although limited) the use of individual poster presentations as an assessment strategy served to foster the very skills that students and prospective lawyers require, independent thinking, creativity, flexibility, research and communication skills. Indeed such attributes reflect the recommendations of LETR,[58] and those articulated by the Joint Statement,[59] and the QAA benchmark statements

[56] (n 1), paragraph 2.78, table 2.5. Accessed 1.08.2018.
[57] ibid, paragraph 4.112. Accessed 1.08.2018.
[58] Ibid, paragraph 2.78, table 2.5. Accessed 1.08.2018.
[59] Joint statement on the academic stage of training, see Schedule One, A. Knowledge and B General transferable Skills. https://www.sra.org.uk/students/academic. Accessed 08.08.2018.

for law.[60] Indeed from the medical law teams perspective, the use of posters as a means of assessment has not only tapped into student creativity, it has also allowed students to build on the lectures and workshops, synthesize and construct their own knowledge and to express this knowledge with confidence, in essence to own the assessment, an outcome which is arguably being suppressed by more traditional approaches to legal assessment. Moreover, the adoption of individual poster presentations has enabled students to comment on legal issues both personally and socially, leading to the development of socially, ethically and it should be added culturally aware human beings.[61] Ironically however, it should be noted that this liberal or non-instrumentalist approach to legal education despite being lauded, is in reality the polar opposite to what the SRA is proposing with SQE 1. In the absence of examples, it is submitted that SQE 1, will focus ultimately on simply objective, instrumentalist, or so called right or wrong answers, which as our own feedback indicates is not what students, or for that matter the profession themselves want. This so called focus of 'law in books' rather than 'law in action,'[62] simply serves to disable rather than enable student learning and confidence, reinforces that law exists in some form of social vacuum, which is far from the truth, [63] and ignores the reality of social life exemplified by cases such as *McFarlane.*[64] This inherent dichotomy is recognised by academics such as O'Brien, who propose righty so that such approaches should not, and are not mutually exclusive,[65] but despite such comments they clearly are.

Perhaps more interestingly, as a University seeking to encompass SQE, and in particular SQE 1, there has for the moment been a pause for thought. Medical Law and Ethics has been allowed to continue down the poster route, and other elective modules such as the Law Clinic are adopting a similar assessment strategy. It would however be a shame if the opportunity for student development were limited to electives, partly because we have to

[60] http://www.qaa.ac.uk/en/Publications/Documents/SBS-Law-15.pdf. 2.1., at 7. Accessed 28.07.18
[61] J. Guth, T. Hervey, (n 2).
[62] M. Salter, J. Mason, (n 10) at 39.
[63] Although tangential it is perhaps interesting that in looking at ongoing professional education the legal profession are drawing on medicine as the shining example, but at the same time seemingly ignoring the recent and ongoing history of scandals, see. D. Morrison, (n 25). The Francis Inquiry https://www.kingsfund.org.uk/projects/francis-inquiry-report. Accessed 08.08.2018.Where lessons arguably have not been learned.
[64] (n 50).
[65] C. O'Brien, 'European Union Law' in C. Hunter (ed.), *Integrating Socio-Legal Studies into the Law Curriculum* (Palgrave Macmillan 2012).

remember that feedback is a correlative, but also because it is clear that not all assessment are created equally.

Finally, it is worth noting that although such limited findings can hardly be called a siren call against SQE 1. It is submitted that if we view student centred learning and feedback seriously, rather than rhetorically, then a large-scale study is required to either validate or invalidate such feedback. In the mean-time it is proposed that the SRA and Universities seeking to adopt MCQs as part of SQE prep, should view such feedback as a cautionary tale, in which creativity is not created or demonstrated by a tick

Appendix A.

In *North West Lancashire Health Authority v A, D, G,* [2001] 1 WLR what did Auld LJ submit was the duty of the Secretary of State in the context of gender reassignment surgery? *Choose one correct answer from the following*.

a. To ensure compliance with the Human Rights Act 1998.

b. To promote rather than to provide a comprehensive health care system.

c. To ensure value for money for treatments.

d. To ensure compliance with clinical decision making.

In light of *Re C (Adult refusal of treatment)* [1994] 1 WLR 290 it now must be demonstrated that in determining consent? *Choose all correct answers from the following*.

a. The patient trusts the doctor.

b. The patient is not subject to coercion of undue influence.

c. The patient is sufficiently informed.

d. The patient is competent.

In the context of Judicial Review, an analysis of the courts' decisions reflects what? *Choose all correct answers from the following*.

a. A desire to enhance the political accountability of the health authority.

b. That where heath authorities adopt unacceptable practices, it is better that changes arise from political rather than judicial intervention.

c. A reluctance to enter any discussion regarding the actual merits of rationing, i.e. whether the authority is right in treating X and not Y.

d. A willingness to test how closely the health authority follows their published guidance.