

1-1-2009

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Recommended Citation

Lansdell, Gaye T. (2009) "Have we 'Pushed the Boat Out Too Far' in Providing Online Practical Legal Training? A Guide to Best Practices for Future Programs," *Legal Education Review*: Vol. 19 : Iss. 1 , Article 7.
Available at: <https://epublications.bond.edu.au/ler/vol19/iss1/7>

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HAVE WE 'PUSHED THE BOAT OUT TOO FAR' IN PROVIDING ONLINE PRACTICAL LEGAL TRAINING? A GUIDE TO BEST PRACTICES FOR FUTURE PROGRAMS

GAYE T LANSDELL*

I INTRODUCTION

In July 2008, a new training regime in Victoria for trainee lawyers was implemented which technically eradicated articles of clerkship and replaced it with a traineeship model.¹ The regime was the end stage of a review of legal education undertaken in 2006–2007 by the Department of Justice in Victoria, which culminated in the release of a report.² That report recommended that trainees be required to undergo a period of formalised practical legal training (PLT),³ in addition to workplace components. More importantly for the context of this paper, the Department of Justice report records that the legal profession has given its support to online training regimes in the area of PLT, thus recognising that 'flexible learning' is now part of legal education.⁴ However, there has been very little independent analysis of or credible research into the educational aspects of this form of training as applied to the legal profession in the critical pre-admission training phase. More specifically, the Department of Justice review

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¹ The *Legal Profession (Admission) Rules 2008* (Vic). The proposed changes are discussed in Gaye Lansdell and Rachel Chrapot, 'Training New Lawyers: Reflections and Future Directions for Training Victorian Lawyers' (2007) 1 *Alternative Law Journal Monograph* 1 77, 80–3.

² Department of Justice (Victoria), *Review of Legal Education Report: Pre-Admission and Continuing Legal Education* (2006).

³ PLT can be the final stage of law qualifications for students wishing to practise law. Historically, this stage has either been fulfilled by articles of clerkships or traineeships and/or by completion of a course covering practical skills and competencies across common legal transactional areas. Such courses may be offered by universities or by private organisations. The range of Australian courses is set out in: Department of Justice (Victoria), above n 2, app.

⁴ Department of Justice (Victoria), above n 2, 58.

did not engage in any systematic analysis of the existing legal online training programs in general.

This paper investigates the efficacy and appropriateness of online programs, which are increasingly being used as a principal means of completing pre-admission training requirements (non-articles or workplace training) for admission to practice as a lawyer in many Australian States and Territories. In so doing, the paper reflects on the observations of both students and teaching staff in the on-campus and online courses of the Postgraduate Diploma of Legal Practice, Skills and Ethics (PDLP) at Monash University gathered during research for this paper (the Monash study). The paper queries whether the changes in technology and associated increases in the prevalence of online training programs are for the benefit of the profession generally. In this respect, the literature pertaining to online delivery in this area of legal education is also considered. By reference to the Monash study, the paper considers whether the important communication skills (critical to legal work) can be obtained through flexible delivery modes, as well as the perceived limitations of such programs. In so doing, the paper queries whether educational institutions and accrediting bodies have gone too far in accepting online PLT courses as a replacement for the more traditional face-to-face modes. The conclusion is drawn that a blended design, with a combination of online components supplemented with regular face-to-face sessions and feedback on assessment tasks, is required to instil the necessary professional legal skills and values. Recognising that online courses are now part of the legal education landscape, best practices are proposed for producing future online programs in this area.

II THE RELATIONSHIP BETWEEN TRAINING AND STANDARDS OF THE PROFESSION

A Can Universities Train Students to be Lawyers?

Trevor Farrow argues that there is a decline in the professional attitude of modern lawyers and the overall standards of professionalism.⁵ He argues that this is due to changes in pedagogy in the law faculty, characterised by the increasing move away from the teaching of law as a vocation, evincing a perceived gulf between law schools and the profession. In the mid 1980s, there was widespread lament about the disconnection between the academy and the

⁵ Trevor Farrow, 'Sustainable Professionalism' (2008) 46 *Osgoode Hall Law Journal* 51, 54; Margaret Thornton, 'The Law School, the Market and the New Knowledge Economy' (2007) 17(1-2) *Legal Education Review* 1, 18.

profession.⁶ By the early 1990s, following the release of Marlene Le Brun and Richard Johnstone's book, the Quiet Revolution,⁷ academics were given the 'ways and means' of how to bring the practical back into the curriculum, and the focus moved to merging the practical with the academic.⁸ More recently, the profession at its highest level has expressed concern again at the gulf between legal practice and the academy.⁹ From the point of view of the judiciary, at least, law schools are still expected to inculcate students into the role of legal professional.

However, this is becoming increasingly difficult as the study of law in university, including the content covered and the delivery modes, has changed substantially in recent years.¹⁰ Many changes have been dictated by the increasing number of students enrolling in law degrees¹¹ and the demand for greater flexibility in delivery.¹²

⁶ This culminated in the release of the 'Pearce Report' in 1987 which recommended major changes to the study of law in Australia: Dennis Pearce, Enid Campbell and Don Harding, *Australian Law Schools: A Discipline Assessment for the Commonwealth Tertiary Education Commission (A Summary)* (1987).

⁷ Marlene Le Brun and Richard Johnstone, *The Quiet Revolution: Improving Student Learning in Law* (1994).

⁸ It was during this time that many university-based legal practice courses were established at, for example, Monash University, Flinders University, University of Wollongong, and University of Western Sydney. Many of these courses worked in tandem with the traditional law degree, allowing students to enrol in PLT in their final year of law studies. The SCALES legal clinic at Murdoch University (first established in the late 1990s) was also born out of this era.

⁹ Expressed by his Honour Chief Justice French of the High Court of Australia in 'Swapping Ideas: The Academy, the Judiciary and the Profession' (Paper presented at the Australian Academy of Law 2008 Symposium Series, Melbourne, Victoria, 1 December 2008) 13–21. This view has also been expressed in the US in the 'Carnegie Report' released in 2007: William Sullivan et al, *Educating Lawyers: Preparation for the Profession of Law* (2007) 6, 94, 243 (Carnegie Report). See also David Chavkin, 'Experience is the Only Teacher: Meeting the Challenge of the Carnegie Foundation Report' (2008) 16 *Washington C L Research Paper* 2, 23–4.

¹⁰ For example, there have been changes to curriculum coverage, assessment modes, attendance statistics due to the posting of materials online and associated declines in teacher–student contact: see Margaret Thornton, 'The Idea of the University and the Contemporary Legal Academy' (2004) 26 *Sydney Law Review* 481, 483–4; Thornton, 'The Law School, the Market and the New Knowledge Economy', above n 5, 1, 10–15; John Tarrant, 'Teaching Time-Savvy Students' (2007) 13 *James Cook University Review* 64, 66.

¹¹ In terms of numbers of students, there were 11,254 enrolled in law in 1984: Dennis Pearce, Enid Campbell and Don Harding, *Australian Law Schools: A Discipline Assessment for the Commonwealth Tertiary Education Commission* (1987) vol 2, 447. In 2000, there were 36,331 enrolled in law and legal studies: Department of Education, Training and Youth Affairs, *Higher Education Students Time Series Tables: Selected Higher Education Statistics 2000* (2000). The increasing student body in law in Victoria is discussed in Department of Justice (Victoria), above n 2, 24.

¹² Michael Geist, 'Where Can You Go Today? The Computerization of Legal Education from Workbooks to the Web' (1997) 11 *Harvard Journal of Law and Technology* 141, 143–4; Andrew Smith, Peter Ling and Doug Hill, 'Adoption of Multiple Modes of Delivery in Australian Universities' (2006) 3(2) *Journal of University Teaching and Learning Practice* 67, 68; Tarrant, above n 10, 64.

Rising student numbers have forced legal educators to withdraw from vocational modes of teaching because of financial exposure and the labour required to provide this kind of training.¹³ The movement back to the liberal model has seen Australian universities identifying their mission as preparing ‘good citizens or better persons rather than good lawyers’.¹⁴ While this is laudable at one level, one must not lose sight of the fact that lawyers should possess certain skills — skills that can be refined only by repetitive ‘immersion’ or practice, which can and should start during undergraduate legal study. Arguably, the current way that law is taught in Australia means that it has, as a qualification, almost ‘replaced the arts degree’.¹⁵ In this respect, the content and depth of legal doctrine that is taught has been ‘watered down’. Compounding this problem is the fact that not all students who study law in Australia proceed to practise it at the completion of their degrees,¹⁶ creating a separated academic and PLT element. As it is increasingly left to PLT providers to complete the evolution process from student to lawyer, it is prudent to review the aims of PLT, before considering the impact of technology on such courses.

B *Learning Aims of PLT Courses*

In most Australian States and Territories, admission to practice as a lawyer post-university requires either a period of articles of clerkship (or a traineeship) and an additional period of programmed training or the completion of PLT with a work-placement component.¹⁷ The purpose of this training is to bridge a perceived gap between what is taught at university and what is required in practice.

¹³ Vivienne Brand, ‘Decline in the Reform of Law Teaching? The Impact of Policy Reforms in Tertiary Education’ (1999) *Legal Education Review* 109, 139–40; Mary Keyes and Richard Johnstone, ‘Changing Legal Education: Rhetoric, Reality and Prospects for the Future’ (2004) 26(4) *Sydney Law Review* 537, 538; Thornton, ‘The Idea of the University and the Contemporary Legal Academy’, above n 10, 484. The Monash PDLP ceased in 2009 due, in part, to these factors. Prior to this in 2007 the Law School also withdrew its Skills, Ethics and Research courses (SERs), removing key vocational elements from the curriculum.

¹⁴ Roger Burrige and Julian Webb, ‘The Values of Common Law Education: Rethinking Rules, Responsibilities, Relationships and Roles in Law Schools’ (2007) 10(1) *Legal Ethics* 72, 74–5.

¹⁵ John Zerelli, ‘Reflections on Legal Education and Philosophy: The Critical Role of Theory in Practice’ (2007) 1–2 *Legal Education Review* 103, 107.

¹⁶ Thornton, ‘The Law School, the Market and the New Knowledge Economy’, above n 5, 7; Tarrant, above n 10, 66; Zerelli, above n 15, 107.

¹⁷ PLT began in Australia in the early 1970s (at approximately the same time that the first distance learning courses were set up at the Australian National University). Nearly all jurisdictions followed suit, with the exception of Western Australia and the Northern Territory: see Julie Pastellas and Kay Maxwell, ‘Blending Educational Tools and Strategies: Integrating Online Learning in Practical Legal Training Programs’ (Paper presented at OLT-2005 Conference, Queensland University of Technology, Brisbane, Queensland, 27 September 2005) 201, 202.

PLT courses focus on the acquisition of generic and lawyering skills, and on enhancing professional responsibility, so as to directly benefit the clients that students will serve. University studies provide the academic foundation. But the practitioner 'adds to that foundation a range of knowledge, skills and attitudes that are derived from the traditions of the profession, from a range of intellectual and social disciplines, and from a study of humanity in all its aspects.'¹⁸ Essential attributes include: well-developed oral and written professional skills; and high standards of ethical conduct that should be able to transcend whatever work situation a lawyer may find him or herself in. Such standards are required of members of the legal profession with their concomitant duties to both their clients and the public in general. Few professions are subjected to the same level of public scrutiny, with the media keen to publish the latest inappropriate behaviour relating to lawyers.¹⁹

When considered against this backdrop, PLT (as the end stage of law studies) must be able to impart the knowledge, skills and values that society expects of lawyers. Trainees seeking admission to practice are now assessed according to an ever-increasing range of competencies.²⁰ However, at the same time, the traditional face-to-face models are being replaced with flexible learning delivery modes with substantial online content.

III THE MOVEMENT TO ONLINE DELIVERY IN PLT

During the 1980s and 1990s, more PLT courses commenced in Australia to fill the gap for students who were unable to complete their professional qualifications by way of articles of clerkship. Traditionally, the delivery of PLT programs was in the face-to-face mode. In 1997, the College of Law began to experiment with online

¹⁸ As reflected in Monash University, *Course Handbook 2008, Postgraduate Diploma of Legal Practice Skills and Ethics* (2008) 6. See also Department of Justice (Victoria), above n 2. The course content for the PDLP was taken from Australasian Professional Legal Education Council, *Competency Standards for Entry Level Lawyers* (first published 2000, revised ed, 2002) (APLEC Competencies), which reflects the common design of PLT courses across Australia.

¹⁹ Landmark cases have highlighted the imperfection of lawyers: *White Industries v Flower and Hart (a firm)* [1998] 156 ALR 169; *McCabe v British American Tobacco* [2002] VSCA 197; *Legal Services Commissioner v Mullins* [2006] LPT 012. Deficient legal education has been blamed for rogue lawyers (on Watergate, see Andrew Watson, 'Lawyers and Professionalism: A Further Psychiatric Perspective on Legal Education' (1975) 8 *Journal Legal Reference* 248, n 3). As a response, in part, to the public concern about lawyers there have been changes to some admission requirements. For example, under the *Legal Profession (Admission) Rules 2008* (Vic), applicants for admission in Victoria must provide a report by an academic institution as to any academic misconduct (r 5.02(1)(c)(v)) and a police criminal record check (r 5.02(1)(iv)).

²⁰ APLEC Competencies, above n 18. See also Department of Justice (Victoria), above n 2, ch 8 for discussion of more rigorous continuing professional development requirements across Australian States and Territories.

delivery (by way of CD-ROMs). Initially, there was some resistance to this model.²¹ It was the view of many at that time that skills could not be taught by way of an online course, and probably a deep-rooted suspicion that the master–pupil relationship that characterised entry to the profession was being further undermined. This view may also reflect the reluctance of the profession itself to embrace new forms of training.²² In terms of experience, the existence of a course as a pathway to admission was already a step down from the principal–articled clerk experience. At approximately the same time, the MacCrate Report²³ was released in the United States (US). It reiterated that the best of skilful and ethical legal practice is achieved ideally when these substantive concepts are addressed and reinforced in real settings.²⁴ This may be one of the reasons why, in the US, online courses are not acceptable to the American Bar Association as a mode of training leading to admission to practice.²⁵

Mutual recognition laws, which were introduced in the mid-1990s in each Australian State and Territory, have arguably affected the traditional PLT course structure. At approximately the same period as the introduction of mutual recognition legislation, the College of Law commenced a program which included a variety of online tools in an integrated learning environment. At the time, this was novel in the PLT arena. Since that time, the College of Law has expanded geographically in the sense that the same course is now delivered across state borders with flexible course dates and adaptations for local legal content.

The establishment of the online College of Law course in Victoria in 2005 resulted in Monash moving to online offerings (in addition to the already existing face-to-face model) in order to remain buoyant in the market.²⁶ The ability to transcend jurisdictional bounds meant that courses under different local rules in other jurisdictions could be bypassed by students ‘shopping around for the most convenient path to admission, rather than automatically qualifying in their home jurisdiction’.²⁷ In this respect, a connection can be drawn between

²¹ Pastellas and Maxwell, above n 17, 202.

²² In 2005, the Victorian Council of Legal Education expressed concern about the introduction of online courses for pre-admission training in Victoria: see Department of Justice (Victoria), above n 2, 58.

²³ American Bar Association (ABA), *Legal Education and Professional Development: Report of the Task Force on Law Schools and the Profession* (1992) (MacCrate Report).

²⁴ In the context of the MacCrate Report, the obligation to pervasively educate future lawyers in skills and ethics is clear: Deborah Rhode, ‘Ethics by the Pervasive Method’ (1992) 42(3) *Journal of Legal Education* 31, 31.

²⁵ Diana Gleason, *Distance Education in Law School: The Train has Left the Station* (Research Paper, University of Nevada Las Vegas, 2009) 1, 3–4.

²⁶ This was certainly one of the driving forces in the establishment of the Monash PDL online course: Submission of Dean of Monash Law to Chairperson, Council of Legal Education, Victoria, 13 December 2004.

²⁷ Gary Tamsitt and Lynn Du Moulin, ‘The PLT Revolution’ *Lawyers Weekly* (Sydney), 17 September 2004, 12, 13.

the change in technology and the modifications to the learning and training of lawyers in Australia — particularly at the PLT stage.

IV THE IMPACT OF NEW TECHNOLOGIES ON THE PRACTICE OF LAW AND PLT

Legal educators both within the profession and the university are affected by the widespread incorporation of new technologies. The environment in which law is practised has altered with widespread consumerism. In addition, the practice of law itself has changed markedly due to the globalisation of legal services and increased specialisation assisted by the technological revolution.²⁸ Universities are struggling to keep up with these demands and train students across all the possible legal permutations of legal practice.²⁹

Distance education is widespread³⁰ — even at universities not traditionally associated with this form of delivery — given the university movement towards high accessibility models for students.³¹ Overall, new technologies appear to be manifesting changes in learning and education generally,³² with students requesting more and more materials to be available online and choosing when, where and how they want to learn. The economic advantages of this new regime for universities are obvious, especially in faculties like law which (by university standards) is perceived as one of the cheaper faculties to run. The same move is also felt within the PLT

²⁸ Legal practice is now characterised by an increasing number of large multi-state corporate law firms, an increase in in-house lawyers and specialist law firms and client cells, whereas there has been a decline in the generalist firms. Innovation in the form of online systems both in and out of court is increasing but at the same time there is also increasing pressure on lawyers raising time–life balance issues. See examples of this as discussed in Tamsitt and Du Moulin: *ibid*; Richard Abel, 'The Decline of Professionalism' (1986) 49 *Modern Law Review* 1; Peter Martin, 'Information Technology and US Legal Education: Opportunities, Challenges, and Threats' (2002) 54(2) *Journal of Legal Education* 509; Colin James, "'Lawyers' Well-Being and Professional Legal Education' (2008) 1 *Law Teacher* 85.

²⁹ Roy Stuckey, 'Preparing Students to Practice Law: A Global Problem in Need of Global Solutions' (2002) 43 *South Texas Law Review* 649, 660–2.

³⁰ Smith, Ling and Hill, above n 12, 68.

³¹ Rebecca Enyon, 'The Use of ICTs for Teaching and Learning in Law Education: Some Innovators' Perspectives' (2006) 3 *Web Journal of Current Legal Issues* 1, 5; David Poyton, 'Integrating C & IT into the Delivery of a Law Module: A Reflective Look at Two Postgraduate Modules Delivered in the 2000/2001 Academic Year' (2001) 3 *Journal of Information, Law, and Technology* <http://www2.warwick.ac.uk/fac/soc/law/elj/jilt/2001_3/poyton> at 23 December 2009.

³² For references dedicated to the discussion of this emerging phenomenon, see Terry Flew, *New Media — An Introduction* (2002); Chris Jones, Maria Zenios and Jill Griffiths, *Academic Use of Digital Resources: Disciplinary Differences and the Issue of Progression* (Paper presented at the Fourth International Conference on Networked Learning, Sheffield University, 5-7 April, 2004); Pat Maier, *Using Technology in Learning and Teaching* (1998); Peter Massingham and Tony Herrington, 'Does Attendance Matter? An Examination of Student Attitudes, Participation, Performance and Attendance' (2006) 3(2) *Journal of University Teaching and Learning Practice* 82, 85.

environment with increasing numbers of students opting for online programs.³³

In tandem with these developments, student consumers have also changed their attitudes to instruction which is due, in part, to the costs of university education and the tendency to see university study only as a means to obtain career qualifications rather than to engage in learning for its own sake.³⁴ Reported declines in attendance at university³⁵ and the reduction in available class time affect the freedom of course designers to structure courses to incorporate practical exercises. Within this context, technological advances arguably threaten any deep learning of material and development of a professional ethos, particularly where traditional face-to-face material is converted into online modes. It is important to consider the impact of new technologies at this critical learning stage for trainee lawyers, as it potentially affects the wellbeing of the profession as well as its standing in the community.³⁶

If not used in an educationally-informed manner, the technology runs the risk of promoting surface learning at best.³⁷ When coupled with the view that law schools do not adequately prepare students to become lawyers, it becomes even more controversial.³⁸ Is the distance education, flexible training model responsible for the lowering of standards and the failure to prepare trainee lawyers adequately for the rigours of practice?³⁹ It is difficult to test this without considering

³³ Kellie Harpley, 'The More Things Change', *Lawyers Weekly* (Sydney), 24 February 2006, 18–20.

³⁴ Anne Ditcher and Sally Hunter, 'The Instrumental Student: An Increasing Problem?' in Lesley Richardson and John Lidstone (eds), *Flexible Learning for a Flexible Society — Proceedings of ASET-HERDSA 2000 Conference, Toowoomba, Qld, 2–5 July 2000* (2000) 202, 202; Sara Dolnicar, 'What Makes Students Attend Lectures? The Shift Towards Pragmatism in Undergraduate Lecture Attendance' in Jim Wiley and Peter Thirkell (eds), *Conference Proceedings of the Australian and New Zealand Marketing Academy — ANZMAC 2004, 29 November – 1 December 2004* (2004) 1, 2; Eve Coxon et al (eds), *The Politics of Learning and Teaching in Aotearoa, New Zealand* (1994) 13.

³⁵ Tarrant, above n 10, 72.

³⁶ In fact, the importance of this area to the profession generally is illustrated by the fact that the Law Foundation of Victoria provided a grant to undertake the research described in this article. The author believes that legal education in Australia requires revamping by the legal profession generally but, as this is unlikely in the short term, this paper focuses on the current system and the recent evolution of online delivery.

³⁷ Maurice Galton, 'Big Change Questions: Should Pedagogical Change Be Mandated? Dumbing Down on Classroom Standards: The Perils of a Technician's Approach to Pedagogy' (2002) 1 *Journal of Educational Change* 189.

³⁸ Roy Stuckey, *Best Practices for Legal Education* (2007) 2; Chavkin, above n 9, 23–4; Keyes and Johnstone, above n 13, 538; Zerelli, above n 15, 106; Thornton, 'The Law School, the Market and the New Knowledge Economy', above n 5, 18.

³⁹ Thornton, 'The Law School, the Market and the New Knowledge Economy', above n 5, 22, where the author espouses the concern that just by 'pressing computer buttons ... technology tends to glide over multifaceted and conflictual ethical problems'. In relation to loss of professionalism, see Farrow, above n 5, 54.

other aspects that may have affected training, including the general move away from the incorporation of practical aspects into law school education.⁴⁰ It is useful, therefore, to consider the known advantages and disadvantages of the online model and contrast this to the 'blended' learning format.

V ONLINE VERSUS BLENDED LEARNING DESIGN

It is true that people learn differently and that not all teaching styles suit all learners, with some people preferring to work in their own environment and alone.⁴¹ In fact, in the Monash experience, some students self-selected the online PLT course on that basis. If a student is independent he/she can probably cope with this sort of learning; however, Margaret Thornton argues that the modern learner is not independent, needs guidance and has a general inability to think for him/herself.⁴² On the other hand, it has been argued that the ability to work in one's own time means that online programs can encourage deep learning⁴³ — which may be due, in part, to the fact that they can work at a time most suitable to their learning needs. Research also reveals that attendance does not necessarily promote learning and that the effectiveness of learning is connected to the instructor and method of instruction.⁴⁴ There have been some successes recorded in online legal programs, including legal interviewing.⁴⁵ Very few discernible differences have been found in learning outcomes between students in either mode.⁴⁶ However, drawing on studies from other areas, greater support may be found for on-campus modes. For example, Andrew Smith, Peter Ling and Doug Hill in their general (non-law related) study found that face-to-face delivery was still the best way of meeting student expectations.⁴⁷

⁴⁰ See Thornton, 'The Idea of the University and the Contemporary Legal Academy', above n 10, 484.

⁴¹ If a student is independent he/she can probably cope with this sort of learning — the Monash experience has been that the modern learner is not independent and needs guidance: see also Thornton, 'The Law School, the Market and the New Knowledge Economy', above n 5, 18; Ditcher and Hunter, above n 34, 202; Peter Martin, 'Cornell's Experience of Running Online, Inter-School Law Courses — An FAQ' (2005) 39(1) *Law Teacher* 70.

⁴² Thornton, 'The Law School, the Market and the New Knowledge Economy', above n 5, 18–20. Ditcher and Hunter express a similar view in their study, above n 34, 202.

⁴³ Lisa Emerson and Bruce R McKay, 'Subjective Cognitive Workload, Interactivity and Feedback in a Web-Based Writing Program' (2006) 3(1) *Journal of University Teaching and Learning Practice* 1, 2.

⁴⁴ Massingham and Herrington, above n 32, 96.

⁴⁵ Rob Nadolski and Jurgen Woretshofer, 'The Use of ICT in the Training of Legal Skills' (2005) 39 *Law Teacher* 29, 41–2.

⁴⁶ Daniel J Shelley, Louis B Swartz and Michele T Cole, 'A Comparative Analysis of Online and Traditional Business Law Courses' (2007) 3(1) *International Journal of Information and Communication Technology Education* 10, 15, where results from a number of studies are considered.

⁴⁷ Smith, Ling and Hill, above n 12, 72.

Likewise, Maurli Shanker and Michael Hu found that their face-to-face version of a business statistics subject recorded higher levels of student satisfaction.⁴⁸

By contrast, blended learning models have received more widespread acclaim.⁴⁹ The blended concept draws the best from both the online models and the traditional face-to-face course by combining both. Some faculties are considering the move to blended models as part of overall university objectives. For example, the University of Wollongong has a strategic direction to move to the blended paradigm across its faculties by 2010.⁵⁰ There is no doubt that an online program does succeed in teaching students how to communicate electronically (a skill necessary in modern legal practice), but there also needs to be face-to-face interaction with staff and other students in order to practise and refine vital communication skills.

Presently, there is very little in the way of published literature focusing on research in the PLT stage of legal education,⁵¹ or any confirmation that students completing online PLT courses are less competent than those who complete a face-to-face course. In the US, there is a perceived gulf between law school education and practice regardless of delivery mode.⁵² But there is research in the non-legal sphere to suggest that students completing courses with blended paradigms have achieved higher grades than their colleagues who

⁴⁸ Maurli Shanker and Michael Hu, 'A Framework for Distance Education Effectiveness: Using a Business Statistics Course' (2006) 1(2) *International Journal of Web-Based Learning and Teaching Technologies* 1, 16.

⁴⁹ See Sarah Lambert and Chris Brewer, '1st, 2nd and 3rd Generation Implementations of an eLearning Design: Re-Use from Postgraduate Law to Block/Online Engineering Course' (2007) 2(2) *Journal of Learning Design* 70, 72; Jennifer Ireland, 'Blended Learning in Intellectual Property: The Best of Both Worlds' (2008) 18 *Legal Education Review* 139, 139–40; Liz Polding, 'Delivering Blended Legal Learning by Open Source Methods' (2007) 1 *Journal of Information, Law and Technology* [5]; Pastellas and Maxwell, above n 17, 207.

⁵⁰ Lambert and Brewer, above n 49, 72. See also Sandra Wills, 'Strategic Planning for Blended eLearning' (Paper presented at the 7th International Conference on Information Technology Based Higher Education & Training, Sydney, July 2006) <<http://ro.uow.edu.au/asdpapers/36>> at 23 December 2009.

⁵¹ Allan Chay says he knows of no study that can categorically say that there is a difference in learning outcomes between the two modes: Allan Chay, 'PLT the National Challenge', *Lawyers Weekly* (Sydney), 5 November 2004.

⁵² Confirmed in the MacCrate Report, above n 23, 3 and the Carnegie Report, above n 9, 6. In the US, *Code of Recommended Standards for Bar Examiners of the National Conference of Bar Examiners and ABA Section of Legal Education and Admissions to the Bar* (US) r 6, under the section headed 'Law School Education', makes it clear that applicants will not be eligible to take the bar examination if they have engaged in correspondence (or online) study. Also Standard 304(g) of Legal Education and Admissions clearly states that approved law schools must not grant credit for courses taken by correspondence. Thus, US universities run law distance courses at their 'peril' in the sense that they may lose their all-important ABA accreditation for incorporating such content.

completed either only online or only face-to-face courses.⁵³ Should we be concerned about the move to online PLT programs and the associated effect that this might have on the development of key legal skills? We can examine this by reflecting on the experiences and observations of teachers and feedback from students in the online and on-campus PLT course, PDLP, at Monash University.

VI OBSERVATIONS OF STUDENTS/STAFF IN THE MONASH PDLP

The research material on which the observations referred to in this part are taken was derived from anonymous questionnaires administered to various intakes of PDLP students at the conclusion of each intake over the survey period of 2005–2007. This included approximately 60 students in the on-campus versions per year and 15–20 online students over the same period. The questionnaire was a standardised university evaluation document covering course objectives, materials, content, teaching practices, intensity, appropriateness to practice of the material covered, and satisfaction with outcomes. These questions yielded quantitative data with a final 'general comments' question yielding qualitative data. There was a high response rate over the survey period of approximately 87 per cent. Instructors also collated both their own observations after each intake and any unsolicited student views on the courses. The latter comments were often communicated either orally or by means of email.

The qualitative comments in relation to the online course were analysed across a number of areas: the general view as to the online learning experience, access to materials and technical issues, online content and discussion, and workload issues. In general, feelings of satisfaction were higher with the on-campus version. In the online version, the most common recurring feedback theme was the feeling of isolation. Of secondary importance was a perceived high workload and curriculum differences and, on a minor level, some technical issues — the latter not always the fault of the provider. By contrast, the on-campus version yielded few negative comments, which generally related only to particular instructors and subjects within the course. Overall, the responses and observations reveal that there are a number of challenges for developers of online PLT programs which may be unique to the study of law.

⁵³ Catherine Dunkle and Lidia Leite, 'Hybrid Courses for Adults: Evaluating the Theoretical Background' in Richard Ferdig et al (eds), *Proceedings of Society for Information Technology and Teacher Education International Conference* (2004) 900.

A *The Online Learning Experience — Isolation*

Unlike traineeships, PLT programs are dependent on simulated interactions between students. Moving to an online mode potentially threatens that interaction by virtue of the nature of the program — students in a pure online program have little or no contact with their peers. In this sense, it removes the training further from reality. It is at this point that one may argue that, if the training is to mirror practice, it should be face-to-face as, in the practice of law, one does need to engage with others. The most common complaint, voiced by over a third of students surveyed in every online course at Monash, was the feeling of isolation.⁵⁴ The complaints reduced as more face-to-face components were added — by the final surveyed offering in 2007, the mix was approximately 70 per cent online and 30 per cent face-to-face. This amended mix yielded a more favourable result from students. The complaint about isolation, in effect, confirms David Poyton's view that there are 'unique elements or qualities of human interaction (in the physical presence of others) that have a profound effect on the learning experience'.⁵⁵ Some students need contact for motivational purposes and not all online programs are good at promoting sociability.⁵⁶ By contrast, the on-campus students attended classes from 9.00 am to 5.00 pm, five days per week for the duration of the course and at least 90 per cent of the surveyed students viewed this 'total immersion' in PLT as a positive experience.

Ironically, even though there were a substantial number of complaints about feelings of isolation, a high percentage of students in the online course also complained about the group-work requirements. When results were cross-referenced, at least 60 per cent of those students were the same students who complained about isolation. Yet the aim of the group-work activities was to bring students into contact with others. It is also a fairly standard requirement to prepare trainees for working in a collaborative environment in legal practice. Group work is encouraged at the PLT stage because it is recognised that the undergraduate study of law is

⁵⁴ Also observed by Pastellas and Maxwell, above n 17, 205.

⁵⁵ Poyton, above n 31, [14]. See also Ken Cheng-Choo, who said that interactivity is a crucial factor in effective learning: Ken Cheng-Choo, 'The Challenge of Developing Engaging Interactive Tertiary Online Language Materials Based on Instructional Design and Learning Principles' in Kate Deller-Evans and Peter Zeegers (eds), *Refereed Proceedings of the 2003 Biannual Language and Academic Skills in Higher Education Conference, 24–25 November 2003* (2003) 149–59.

⁵⁶ Roslin Brennan, 'One Size Doesn't Fit All: The Pedagogy of Online Delivery in Australia' in Hugh Guthrie (ed), *Online Learning: Research Readings* (2003) 55, 63–4. See also Steven F Tello, 'An Analysis of Student Persistence in Online Education' (2007) 3(3) *International Journal of Information and Communication Technology Education* 47, which found the drop-out rate in online courses to be fairly high and cautioned about the need to develop strategies to facilitate student persistence in online courses.

largely individualised.⁵⁷ Working as part of a group is a learnt task requiring coordination and instruction. Anecdotal feedback revealed that many students felt that not all members of the group 'pulled their weight' and, in an online context, it was more difficult to steer and control wayward group members. It was also apparent that students in online programs have less time to mix with their course colleagues and that group-work requirements make heavy demands on their already stretched lives.

B *Monitoring Feedback and Assessment*

PLT courses generally follow a formative assessment model. In the on-campus version, because students attend daily, it is easier to monitor their performance. However, in online formats, there can be a difficulty in observing the progress of students.⁵⁸ Feedback in the form of assessment needs to be more frequent than in face-to-face modes.⁵⁹ This form of continuous assessment performs a dual function: reducing the sense of isolation for the student and allowing the instructor to monitor student assimilation and progress. Although one might argue that a professional needs to be able to work independently and interpret legal tasks alone, it might not be appropriate for a student at this critical early learning phase to be without guidance, focus or direction. The experience from the Monash online program was that, without clear instruction and guidance, some students misinterpreted instructions, performing tasks incorrectly. Instructors were also critical of the program, 'buckling' under the weight of the marking requirements for the online course. Delays were experienced in returning feedback, with students commonly complaining about this. In many instances, the assessable tasks (relating to drafting or letter writing) were returned after the course had finished, thus eliminating the usefulness of the feedback for other tasks.

C *Curriculum Differences*

One of the more obvious issues which arose, creating a divide between the on-campus and online programs, was the necessary reduction in curriculum content. As online programs are driven by technology, it is just not possible to recreate the same experience as face-to-face contact. If an online program is fundamentally unsound,

⁵⁷ See Keyes and Johnstone, above n 13, 539.

⁵⁸ Leonard Webster, Joanna Becker and Kerryn Jackson, 'Professional Legal Accreditation Online — An Innovative Approach to an Online Learning Community' (Paper presented at the Third Pan-Commonwealth Forum on Open Learning, Dunedin, New Zealand, 2004) 3, which suggests that controls need to be built into the online programs to monitor student progress.

⁵⁹ Jack R Goetz, 'Interactivity Remains the Key to Successful Online Learning' <<http://jurist.law.pitt.edu/lessons/lesnov00.htm>> at 23 December 2009.

it will be a challenge for it to compete with the face-to-face product where difficulties can be 'ironed' out by direct contact.

There were distinct differences in the curriculum quality of the online vis-à-vis the on-campus course product in the Monash experience. As an example, when the students from the full-time face-to-face course were combined with students from the online mode for an advocacy exercise during a three-day mini-intensive, the online group began to realise that their course content, particularly the experiential skills training they received as a group, was not as frequent as in the full-time mode. This led to complaints from the online group about potential disadvantages with their training experience. Time limitations with respect to face-to-face sessions meant that what could be offered was different. In addition, despite their preference for an online course, students did not fully embrace the online nature of it, still preferring to receive hard copies of materials placed online.

The other important difference between the two courses was with respect to contact with instructors and practitioners. In the on-campus mode, because there were fewer time constraints, there was more opportunity for students to build rapport with lecturers over a range of issues. The opportunities for this in the online mode occurred only during periodic face-to-face sessions. This contradicts Tamsitt and Du Moulin's view that online programs have the advantage of 'personal mentoring'⁶⁰ and that students undertaking such programs can 'get feedback and interact with other students and instructors'.⁶¹ In fact, one of the difficulties for online programs is that, by their very nature, they disengage the teacher.

Overall, staff felt that the level of professionalism and confidence displayed by students in the face-to-face mode was higher than from those in the online course. This confirms the findings in previous studies in relation to face-to-face courses, as set out in the literature review by Sarah Lambert and Chris Brewer.⁶² In the Monash study, the standard of professionalism was measured by students' attitudes and the quality of their work and commitment to clients. It was thought that the full-time nature of the on-campus offering better facilitated the development of a professional ethos because of the more regular contact students had with practitioners. This may have been the result of the fact that the treatment of ethics instruction differed between the two courses. The on-campus version was run as a one-week intensive involving many members of the profession as guest lecturers, who were drawn from the judiciary, from private practice, government agencies and in-house corporate practice. By contrast the online version components were solely online with

⁶⁰ Tamsitt and Du Moulin, above n 27, 12.

⁶¹ Ibid 13.

⁶² Lambert and Brewer, above n 49, 72.

students completing the requirements over one day. Both sessionals and full-time instructors also noted that the oral communication skills were more refined in those students participating in the on-campus version who had more opportunity to practise them and receive feedback.

D *Attitudes to Workload*

The view has been expressed that current students display a general lack of responsibility for their own learning.⁶³ By moving to even more isolative modes of study in terms of instructor interaction, this could be heightened because one of the main aims of such programs is student-centred learning.⁶⁴ In a study from Cornell,⁶⁵ students conceded that the online approach to learning took a certain amount of motivation. PDLP instructors observed, from the rate and content of email requests from the online group, that they were overall more 'needy', preferring staff to provide answers to simple questions and generally reluctant to engage with the materials.

One of the defining aspects for the students in the online version was the fact that 98 per cent of students who undertook the course had other competing priorities, such as contemporaneous work commitments usually in a non-legal setting.⁶⁶ For 90 per cent of those undertaking the course, there was an admission that their participation was less than 60 per cent of their maximum potential. For them, the online program was the only option to facilitate their aims quickly. One queries whether PLT should be relegated to a course that is seen as another 'box to tick' on the way to admission. Complaints about workload were higher in the online version, particularly in relation to the range and number of assessable tasks. At one stage, one instructor recalled a 'posse' of students coming to him to ask whether all the assessment dates close to the end of the financial year could be modified by two weeks so as to fit with their work commitments. Not surprisingly, only five per cent of students used the discussion boards and fully participated in the group or individual non-assessable exercises. A combination of the fact that they were non-assessable and the lack of instructor engagement may have been the catalyst for this. Polding⁶⁷ also experienced a similarly

⁶³ Ditcher and Hunter, above n 34, 5; Bernadette Richards, 'Alice Comes to Law School: The Internet as a Teaching Tool' (2003) 14 *Legal Education Review* 115, 123.

⁶⁴ Winnie Wade, 'Introduction' in Winnie Wade et al (eds), *Flexible Learning in Higher Education* (1994) 1, 1–5.

⁶⁵ Peter Martin, 'Cornell's Experience of Running Online, Inter-School Law Courses — An FAQ', above n 41, 78.

⁶⁶ The increasing number of university students working in full-time and part-time capacities and the impact that has on educational design is discussed in Tarrant, above n 10, 71.

⁶⁷ Polding, above n 49, [29].

low use of the discussion boards feature, whereas Lillian Corbin, when using the discussion board in connection with assessment tasks, found a high usage level.⁶⁸

The fact that students themselves admitted that their participation and commitment were less than optimal and circumscribed by employment is reflected in the marks received by students in the online courses. Across all the online courses, the marking average was lower than for the on-campus versions. Also, as revealed by both the PDLP evaluations and the anecdotal comments, online students had a skewed perception of both their role in online programs and the likely workload. Qualitative research of students in the Monash online PDLP revealed comments such as ‘I thought this would be easy since it was all online’, ‘I didn’t realise I would have to teach myself’ or ‘I have other commitments in my life and there are too many assessments’. In the legal clinic subject, where students were required to attend a community legal centre once a fortnight to assist clients, clinic instructors observed that the online students’ commitment to their duties was lower than that of the students in the on-campus version. This was measured by their commitment to work on clients’ files and their attendance at the clinic. More online students than on-campus students missed client intake sessions and a far greater portion of online students attempted to relegate menial tasks to clinic support staff, which was perhaps a reflection of their status in their outside employment.

E Human Resources and Technical Support

In the move to online delivery, there must be a large financial commitment by the institution, both in the development of the program and in the staff that maintain it.⁶⁹ There is an assumption in the university that all instructors can teach such programs, but in the Monash experience and in other programs⁷⁰ that was not the case, so the pool of experienced and available teachers was small. In the PDLP, most of the instructors who taught in the on-campus course were not prepared to teach in the online program, believing that the experience for students was not equivalent to the on-campus version. One instructor refused to teach because she ‘could not [for privacy reasons] convey all her experiences from practice through an online course’. Another instructor believed that his course was completely modified by its transition to the online mode as his teaching style of ‘looking over the shoulder of students while completing their

⁶⁸ Lillian Corbin, ‘Learning in Cyberspace: Succession Law Online’ (2004) 11(1) *Murdoch University Electronic Journal of Law* <<http://www.murdoch.edu.au/elaw/issues/v11n1/corbin11nf.html>> at 23 December 2009.

⁶⁹ Enyon, above n 31, 10; Pastellas and Maxwell, above n 17, 205.

⁷⁰ Pastellas and Maxwell, above n 17, 205.

documents — to give immediate advice and support, would be undermined'.

Responses ranged from a belief that certain subjects should not be taught in an online mode (for example, trust and office accounting) to the extreme view that '[PLT] should not be taught at all by way of an online course'. With such views, it was difficult to find staff willing to teach in the online course, necessitating the employment of practitioners. This led to the associated problem of delays in the provision of feedback since many of the sessional staff had other employment commitments. Where formative assessment is involved, this aspect affects the quality of the course.

VII THE CHANGING TIDE IN PLT — CONSIDERING BEST PRACTICES FOR ONLINE PROGRAM DELIVERY

With the abolition of articles in Victoria (as in a number of other Australian jurisdictions)⁷¹ and its replacement with a new traineeship model incorporating a compulsory PLT component, it is clear that the flexible learning model will need to be maintained. In Victoria in 2009, statistics reveal that following the implementation of the new admission rules less traineeships were offered than in previous years.⁷² Taking Victoria as an example alone: as the pool of PLT providers diminishes,⁷³ the popularity of online models will continue to increase to deal with the sheer numbers of students needing to take PLT as a pathway to admission.

Although there is no doubt that 'internet based learning is not intended as a substitute for face-to-face teaching',⁷⁴ we must ensure that we do not push the veritable boat out 'too far' in converting materials and experiences to the online medium. There must be a limit to how far the program becomes electronic. For example, claims that advocacy can be taught (adequately) online should be viewed cautiously. Recently, David Spencer and Samantha Hardy, in relation to negotiation, found in their research 'that the lack of human contact through online dispute resolution processes jeopardises the chance of resolution'.⁷⁵ Given the results of their research, and the fact that the skill of negotiation is a competency that is assessed as

⁷¹ Department of Justice (Victoria), above n 2.

⁷² Richard Besley, CEO Board of Examiners, 'Admission to Practice in Victoria' (Speech delivered at the Monash University Law Students, Lawyers, Ethics and Society, Melbourne, 23 October 2009).

⁷³ Monash University discontinued its PDLP (in all its versions) in 2009 due to a number of factors, including a change in strategic direction for the faculty. This followed a similar move by University of Queensland in 2006: Letter from Dean, Law Faculty of University of Queensland to APLEC Executive, November 2006.

⁷⁴ Richards, above n 63, 131.

⁷⁵ David Spencer and Samantha Hardy, 'Deal or No Deal: Teaching On-Line Negotiation to Law Students' (2008) 8(1) *Queensland University Technology Law and Justice Journal* 93, 100.

one of the core skills in PLT, the use of online formats for training students in the art of negotiation is questionable.

Responding to the need to create places to accommodate burgeoning student numbers, the development of the online program should not be a conversion of large volumes of material to a flexible delivery mode. It must not allow students just to focus on assessment tasks to define the curriculum. Instead, it should be recognised that within the online program the student may be ‘lurking rather than contributing’.⁷⁶ Programs must both engage and stimulate the participant in order to promote deep learning and at the same time provide practice allowing students to achieve the required competencies.⁷⁷ In this vein, it is useful to draw on John Biggs’ thoughts that there is ‘no single best method of teaching ... [B]etter teaching methods are those that are more effective in getting the learner to engage in productive learning activities’.⁷⁸ Encouraging a lifelong commitment to learning is essential for a legal practitioner, given that law schools are not in a position to prepare them for the different routes they may take in legal practice.

For PLT program developers, the key is to ensure that the learner is engaged and can interact with the content, the instructor and his/her peers. Online courses are ‘learner-centred’ by nature where students can be constructors of their own knowledge,⁷⁹ but one must be careful to ensure that the program will motivate them towards self-education. In a sense, this is the starting point for best practices. Such a framework also draws from the strengths of the on-campus format — the ability to instantly motivate the student, to provide immediate feedback, and immediate and sustained interaction with others. Taking account of some of the issues revealed by the Monash study, best practices would incorporate the following four components, which actively promote the ‘blended’ design paradigm.

First, to reduce feelings of isolation and promote inclusiveness, there should be a significant number of face-to-face sessions formatted either as mini-intensives, weekends or evenings included over the course with some regularity. By the final intake of the Monash online course, the right mix had been achieved of face-to-face sessions which were incorporated not only to require students to engage in selected oral activities, but to provide a forum to exchange

⁷⁶ Peter Albion and Petrea Redmond, ‘Returning the Favour: Using Insights from Online Learning to Enhance On-Campus courses’ in Caroline Crawford et al (eds), *Proceedings of Society for Information Technology and Teacher Education International Conference 2006* (2006) 2458, 2460.

⁷⁷ David Boud and Michael Prosser, ‘Key Principles for High Quality Student Learning in Higher Education from a Learning Perspective’ (2002) 39(3) *Educational Media International* 238, 239.

⁷⁸ John Biggs ‘Teaching for Better Learning’ (1989–1990) 2(2) *Legal Education Review* 133, 144.

⁷⁹ Wade, above n 64, 5; Corbin, above n 68.

ideas and raise concerns about course content. Bringing students together also fosters important teamwork skills. Best practices would also require participation in online threaded and assessed discussion groups with clear guidelines for bulletin board/discussion group postings incorporating links to assessment. For example, there could be a requirement for students to respond to a particular number of postings as part of assessment in a unit. However, at the same time, workload demands of staff in monitoring these discussion boards needs consideration by course providers and support by way of recognition, particularly in faculties where staff also carry research obligations.⁸⁰

Second, to facilitate engagement, the material in the online program needs to promote interaction and motivation, which are vital ingredients in online learning, while recognising that students are largely responsible for their own learning. This can be done by providing materials that are visual, animated, auditory and/or linked to other sites, thereby taking account of the fact that there are a variety of learning styles.⁸¹ There are an assorted range of resources that are used to enhance on-campus course content (such as DVDs and video-conferencing) which can be used in the online mode as well. Research confirms a connection between the interactivity of the program and levels of satisfaction with online delivery.⁸²

Third, a strong framework for support and guidance is required. In the Monash experience, the lack of engagement of students may have been due, in part, to the fact that students undertaking the program were unclear of their role with respect to online education at the university level. This was certainly exhibited by the workload concerns. The student needs to realise that the role of the teacher is one of scaffolding and coaching rather than leading.⁸³ From the outset, the program must deal with student attitudes and expectations; in particular, it must focus on the self-management required in online learning and provide time estimates for completion of reading and exercises. Learning outcomes will depend on student acceptance.⁸⁴ Assessment instructions must be clear, with systems put in place to ensure the integrity of completion. Institutions and other providers without experience in distance learning need to be wary of these

⁸⁰ Robert Lloyd, 'Investigating a New Way to Teach Law: A Computer-Based Commercial Law Course' (2000) 50(4) *Journal of Legal Education* 587, 590, which discusses the costs in terms of workload for staff using discussion boards.

⁸¹ Gaye Lansdell, 'The "Flexible Learning" Paradigm: Have We Forsaken Quality and Professionalism for Technological Convenience in the Training of Lawyers in the 21st Century?' in Angela Ragusa (ed), *Interaction in Communication Technologies and Virtual Learning Environments: Human Factors* (2009) ch 6.

⁸² Thomas Keefe, 'Using Technology to Enhance a Course: The Importance of Interaction' (2003) 1 *EDUCAUSE Quarterly* 24, 27.

⁸³ Wade, above n 64, 1–5.

⁸⁴ D Randy Garrison and Terry Anderson, *E-Learning in the 21st Century: A Framework for Research and Practice* (2003).

issues. There must be university support and commitment to such programs at a higher level.

Fourth, feedback is a vital component of professional legal education given that it is rooted in formative assessment models.⁸⁵ Diana Laurillard has described this as a need for a continuous dialogue between teacher and student.⁸⁶ In particular, it is necessary to ensure instructor interaction where students master particular exercises or assessments, complete them via sequential inputting, and receive feedback before moving on to the next level; to develop feedback resources that are immediately available to students without delay; and to ensure that students complete the material over a set period rather than in an intensive manner where the capacity for deep learning is undermined.⁸⁷

VIII CONCLUSION

It is apparent that somewhere in the establishment of online programs, in Victoria at least, the question of whether it was appropriate to tread the flexible delivery path for PLT was overlooked. As most of the deliberations of the Council of Legal Education in Victoria and those of other accrediting providers are confidential, it is difficult to glean the level of analysis that was engaged in. It is understood that the College of Law, as the largest online training provider, has undergone a number of reviews of its program since its inception; but few are publicly available. Certainly, at the time the College of Law course was accredited to run in New South Wales, online legal training was in its infancy.

As an alternative, this paper has sought to communicate some of the essential issues for online program developers as experienced from the Monash study. Even though the sample study was small, the results as extrapolated for this paper provide a basis for arguing that significant online instruction is by no means a substitute for face-to-face modes. Observations and examples discussed support the argument that the move to online PLT, at least as it applies to the Monash experience, has been marked by a reduction in quality and standards. The study revealed a number of negatives with the online course which at its basic level revealed a general inability to replicate the on-campus version with the same level of quality. It should be noted that this was not the reason for the disestablishment

⁸⁵ Scott Slorach and Phillip Knott, 'The Development of Skills Teaching and Assessment on the English Legal Practice Course — A Nottingham Law School Perspective' (1996) 14(2) *Journal of Professional Legal Education* 189; see also 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, 195.

⁸⁶ Diana Laurillard, *Rethinking University Teaching* (1993).

⁸⁷ Lansdell, above n 81.

of the program which was instead driven by a fundamental change in the strategic direction of the faculty. The Monash study also revealed differences in the levels of professionalism between the on-campus and online students which warrant further study.⁸⁸ Ethics have received heightened attention in Victoria with the recent recognition that the ethical responsibility of lawyers is an issue for the profession, requiring special attention in the new training regime.⁸⁹

One concern highlighted in this paper was the real and potential evolution of online PLT courses without the benefit of a thorough research analysis of this form of training. While it was recognised that empirical evidence as to online instruction is lacking in the PLT area, the paper sought to discuss and analyse studies drawn from other areas. It is arguable, however, that law as a distinct profession cannot easily be compared with other disciplines and what may be appropriate in one academic discipline may not be appropriate in practical training for law. Research has revealed that some of the important professional legal skills such as interviewing, advising, advocacy and negotiation cannot and should not be taught online and that such skills must be periodically practised over the course duration (in other words, a one-week block on advocacy is insufficient).

Recognising that online delivery is part of the changing tide of PLT, the paper has outlined some of the more important best practices that should be followed by program developers to ensure that high standards are maintained. The blended paradigm is advocated as the best way to maintain a high quality course for both students and the profession. If the flexible learning model is to continue unabated, then accrediting bodies should ensure that all courses have a blended mix of online and face-to-face components and that such courses are regularly evaluated.

It is still unclear how the move to online PLT programs will affect future standards in the profession. In the race to develop such technologies or provide flexibility to students by way of online programs, we must not lose sight of the need to promote sound educational objectives for the training of lawyers. In this sense, we must keep the 'boat afloat and close to the shore'. The next step will be to review and survey the content of current courses and share this information in a transparent manner with key stakeholders so as to guide future accreditation.

⁸⁸ Chavkin, above n 9, 53, 195, states that experiential learning in the face-to-face mode is required to develop the sense of professionalism.

⁸⁹ As set out in Recommendation 10: Department of Justice (Victoria), above n 2, 50.