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Implementing the Self-Management Threshold Learning Outcome for Law: Some Intentional Design Strategies from the Current Curriculum Toolbox

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IMPLEMENTING THE SELF-MANAGEMENT THRESHOLD LEARNING OUTCOME FOR LAW: SOME INTENTIONAL DESIGN STRATEGIES FROM THE CURRENT CURRICULUM TOOLBOX

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I INTRODUCTION

There is a growing awareness of the high levels of psychological distress being experienced by law students and the practising profession in Australia. In this context, a Threshold Learning Outcome (TLO) on self-management has been included in the six TLOs recently articulated as minimum learning outcomes for all Australian graduates of the Bachelor of Laws degree (LLB). The TLOs were developed during 2010 as part of the Australian Learning and Teaching Council's (ALTC's) project funded by the Australian Government to articulate 'Learning and Teaching Academic Standards'. The TLOs are the result of a comprehensive national consultation process led by the ALTC's Discipline Scholars: Law, Professors Sally Kift and Mark Israel.[1] The TLOs have been endorsed by the Council of Australian Law Deans (CALD) and have received broad support from members of the judiciary and practising profession, representative bodies of the legal profession, law students and recent graduates, Legal Services Commissioners and the Law Admissions Consultative Committee. At the time of writing, TLOs for the Juris Doctor (JD) are also being developed, utilising the TLOs articulated for the LLB as their starting point but restating the JD requirements

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[1] Sally Kift, Mark Israel and Rachael Field, *Learning and Teaching Academic Standards Project: Bachelor of Laws Learning and Teaching Academic Standards Statement December 2010* (11 February 2011) Australian Learning and Teaching Council <http://www.altc.edu.au/system/files/altc_standards_LAW_110211.pdf>.

as the higher order outcomes expected of graduates of a 'Masters Degree (Extended)', this being the award level designation for the JD now set out in the new Australian Qualifications Framework.[2] As Australian law schools begin embedding the learning, teaching and assessment of the TLOs in their curricula, and seek to assure graduates' achievement of them, guidance on the implementation of the self-management TLO is salient and timely.

TLO 6 'self-management' states that:

Graduates of the Bachelor of Laws will be able to

a. learn and work independently, and

b. reflect on and assess their own capabilities and performance, and make use of feedback as appropriate, to support personal and professional development.[3]

Intentional and strategic approaches to curriculum design will be critical to assuring the effective and successful development of law students' self-management knowledge, skills and attitudes. This paper proposes some possible curriculum design strategies for the learning, teaching and assessment of the self-management TLO, particularly in relation to paragraph (b). Pedagogical strategies for paragraph (a) may address a broad range of skills including time management, stress management, resilience and emotional intelligence. While these are invaluable attributes for both students and practitioners of the law, extant approaches to incorporating these types of skills into legal curricula in Australia are formative and disparate.[4] This landscape provides fertile ground for future research;[5] however, for

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2   *Australian Qualifications Framework* (21 April 2011) <http://www.aqf.edu.au/ Portals/0/Documents/Australian%20Qualifications%20Framework%20Final% 20Version%2021%20April%202011.pdf> ('AQF'). The 'use of the title "Juris Doctor" is permitted for a Masters Degree (Extended) for legal practice' under the newly revised AQF: at 61. As such, the JD is a Level 9 qualification, compared with the LLB, a Bachelor Degree, at AQF Level 7, or a Bachelor Honours Degree at AQF Level 8.

3   Kift, Israel and Field, above n 1, 22.

4   See, eg, Kath Hall, Molly Townes O'Brien and Stephen Tang, 'Developing a Professional Identity in Law Schools: A View from Australia' (2010) 4 *Phoenix Law Review* 19, 42–8; Anna Huggins, 'The Threshold Learning Outcome on Self-Management in the Discipline of Law: A Proposed Focus for Teaching Strategies in the First Year Law Curriculum' (2011) 2(2) *International Journal of the First Year in Higher Education* 23; Colin James, 'Seeing Things as We Are. Emotional Intelligence and Clinical Legal Education' (2005) 8 *Clinical Legal Education* 123; Colin James, 'Lawyer Dissatisfaction, Emotional Intelligence and Clinical Legal Education' (2008) 18 *Legal Education Review* 123; Massimilano Tani and Prue Vines, 'Law Students' Attitudes to Education: Pointers to Depression in the Legal Academy and the Profession?' 19(1) *Legal Education Review* 3; Penelope Watson and Rachael Field, 'Promoting Student Wellbeing and Resilience at Law School' in Sally Kift et al (eds), *Excellence and Innovation in Legal Education* (LexisNexis, 2011) 389; Prue Vines, 'Working towards the Resilient Lawyer: Early Law School Strategies' in Leon Wolff and Maria Nicolae (eds), *First Year Experience in Law: A New Beginning?* (Halstead Press, forthcoming).

5   This topic is part of the PhD research, through Queensland University of Technology, of one of the authors.

the purposes of this paper, we focus primarily on curriculum design strategies for paragraph (b) taken from the current and familiar legal education toolbox. This will enable law teachers to embed and implement desirable enhancements relatively quickly and easily.

The first strategy proposed is to ensure that the curriculum design approaches adopted for self-management are engaging. The strategies suggested are grounded in Biggs' framework of engagement, which centres on motivating student learning, providing a learning climate that supports engagement and ensuring that learning is active.[6] The second strategy proposed is to adopt learning, teaching and assessment approaches that promote student autonomy. Finally, reflective practice is considered as a desirable mechanism for implementing the self-management TLO in legal curricula. Before these approaches are discussed, this article explains the background of the law TLOs, and the relevance of the self-management TLO to addressing the high levels of psychological distress experienced by law students.

This article is structured as follows. Part II provides a background on the ALTC's TLOs and Part III outlines recent research on law students' elevated levels of psychological distress, highlighting the importance of the self-management TLO for legal education. In Part IV, a conceptual framework is suggested for intentional curriculum design to implement TLO 6. This framework centres on student engagement. It draws on Ramsden's principles of effective teaching, as well as Biggs' three categories of design orientation that are central to achieving student engagement (motivation, learning climate and learning activity). In Part V, practical strategies for implementing TLO 6 are suggested through adopting approaches focused on supporting student autonomy. In particular, these approaches address the elements of TLO 6 focused on independent learning and use of feedback. Part VI suggests reflective practice as an effective strategy for learning, teaching and assessing the reflective elements of TLO 6, including the ability of students to assess their own capabilities and performance, and their ability to make use of feedback in support of their personal and professional development. The strategies suggested in Parts V and VI are grounded in the pedagogy of student engagement espoused in Part IV.

II Background to the ALTC's Threshold Learning Outcomes

Before discussing strategies for learning, teaching and assessing self-management in Australian law schools, this Part provides some background on the ALTC's Learning and Teaching Academic

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[6] J B Biggs and C Tang, *Teaching for Quality Learning at University* (Open University Press, 2007) 56.

Standards (LTAS) Project and the development of discipline TLOs. In March 2008, the Australian Government initiated a review of higher education — the Bradley Review. Reporting later that same year, the Bradley Review recommended a number of far-reaching reforms of the Australian higher education sector to promote its continuing national and international relevance, standing and competitiveness. A number of these suggestions have informed subsequent government policies and funding initiatives for the sector and have prompted significant reform focused on assuring quality, attainment and participation.[7]

Two drivers for reform are particularly pertinent to understanding the development and significance of the TLOs for the discipline of law: the establishment of an independent quality and assurance agency for the Australian higher education sector; and a shift towards universities demonstrating standards-based outputs rather than inputs. As recommended by the Bradley Review, the Australian Government is currently developing a new Higher Education Quality and Regulatory Framework, which includes the establishment of the Tertiary Education Quality and Standards Agency (TEQSA).[8] The *Tertiary Education Quality and Standards Agency Act 2011* (Cth) (the TEQSA Act), which commenced operation on 29 July 2011, outlines the functions and roles of TEQSA.[9] As described in section 3(b)(i) of the TEQSA Act, one of TEQSA's roles will be to oversee a new standards-based quality assurance framework for Australian higher education providers. This standards-based approach reflects the Bradley Review's recommendations that the higher education sector shift away from a focus on 'inputs and processes' towards a framework oriented to 'assuring and demonstrating outcomes and standards'.[10]

It is against this policy and regulatory backdrop that the Australian government commissioned the ALTC to manage the LTAS Project in 2010. One of the aims of this project was to facilitate the development of discipline-specific academic standards through consultation with relevant discipline communities.[11] Reflecting the preferred focus on graduate outputs rather than inputs,[12] these academic standards were

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[7]   Denise Bradley et al, *Review of Australian Higher Education: Final Report* (2008) Department of Education, Employment and Workplace Relations (DEEWR) <http://www.deewr.gov.au/HigherEducation/Review/Documents/PDF/Higher%20Education%20Review_one%20document_02.pdf>.

[8]   See Australian Government, *Transforming Australia's Higher Education System* (2009) DEEWR <http://www.deewr.gov.au/HigherEducation/Documents/PDF/Additional%20Report%20-%20Transforming%20Aus%20Higher%20ED_webaw.pdf>; DEEWR, *Review of Australian Higher Education — Overview* (2011) <http://www.deewr.gov.au/HigherEducation/Review/Pages/default.aspx>.

[9]   *Tertiary Education Quality and Standards Agency Act 2011* (Cth).

[10]   Bradley et al, above n 7, 115, 137.

[11]   Kift, Israel and Field, above n 1.

[12]   Bradley et al, above n 7, 115, 137.

described in terms of minimum/threshold learning outcomes that all graduates are expected to acquire over the course of their degrees. In the language of the Australian Qualifications Framework, the TLOs represent what a graduate is expected 'to know, understand and be able to do as a result of learning'.[13]

Throughout 2010, Discipline Scholars, representing a range of broad discipline areas, including law, consulted extensively with diverse stakeholders to inform the development of the TLOs. The drafting process was also assisted by international experts and the work of similar projects both within and outside Australia. The Law Discipline Scholars, Professors Sally Kift (Queensland University of Technology (QUT)) and Mark Israel (University of Western Australia), assisted by Project Officer Rachael Field (QUT), led the consultation and drafting processes for the TLOs in law. The final TLOs articulated for the LLB are set out in the *Bachelor of Laws Learning and Teaching Academic Standards Statement* ('*Standards Statement*') under the following six headings: (1) knowledge; (2) ethics and professional responsibility; (3) thinking skills; (4) research skills; (5) communication and collaboration; and (6) self-management.[14] In the *Standards Statement*, each TLO is also accompanied by explanatory material which sets out the precedents for, and the development of, the endorsed TLO and its terminology. This material provides guidance on the language used in the TLO and general points that may need to be considered when designing learning, teaching and assessment approaches.

Further guidance is provided by several good practice guides (GPGs) on the TLOs that have been commissioned under the auspices of the Law Assistant Deans (Learning & Teaching) Network, which was created as part of the LTAS Project in 2010.[15] Judith Marychurch, the Associate Dean, Learning and Teaching, at the University of Wollongong Law School, prepared the GPG for the TLO on self-management.[16] This GPG seeks to assist law schools and educators implement TLO 6 by:

- providing a concise summary of existing research and good practice in the area;
- synthesising the key considerations to be taken into account in determining how to implement TLO 6; and
- identifying areas in which further work is needed.[17]

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[13] Kift, Israel and Field, above n 1.
[14] Ibid.
[15] Australian Learning and Teaching Council, *Disciplines Setting Standards: Learning and Teaching Academic Standards Project* (June 2011) <http://www.altc.edu.au/system/files/Standards_100601_0.pdf>.
[16] Judith Marychurch, *Good Practice Guide: Threshold Learning Outcome 6 Self-Management* (Australian Learning and Teaching Council, 2011).
[17] Ibid 1.

The GPG includes recommendations from a previous version of this article as well as other examples of good practice from various Australian law schools. In addition, a standards rubric for TLO 6 is being developed through Beverly Oliver's ALTC Assuring Graduate Capabilities project.[18]

In a speech made on 2 March 2011, Senator Chris Evans, the Minister for Tertiary Education, Skills, Jobs and Workplace Relations, stated that the outcomes of the ALTC's LTAS Project will be 'drawn on by TEQSA in the development of new learning and teaching standards which will guide its quality assurance activities'.[19] The TLOs have also been approved by CALD. In November 2010, CALD endorsed the *Standards Statement* as 'an appropriate statement of the Threshold Learning Outcomes that are required of Bachelor of Law graduates from any Australian university'.[20] Further, the Legal Admissions Consultative Committee considered adopting the TLOs as requirements for admission to legal practice, but has ultimately opted to retain the Priestley 11 core subjects as admission requirements at this stage.[21] In this context of support for the TLOs from the broad disciplinary community, their endorsement by CALD and the potential for their use as a reference point in the TEQSA environment, it is 'timely for law schools to direct attention to developing pedagogical strategies to promote and demonstrate students' acquisition of the TLOs, including the ability to self-manage'.[22]

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[18] Ibid 21.

[19] Christopher Evans, 'Keynote Address' (Speech delivered at the Universities Australia Conference, Canberra, 2 March 2011) <http://www.deewr.gov.au/Ministers/Evans/Media/Speeches/Pages/Article_110302_134902.aspx>.   See also Australian Government, *Discussion Paper: Developing a Framework for Teaching and Learning Standards in Australian Higher Education and the Role of TEQSA* (2011) Tertiary Education Quality and Standards Agency <http://www.deewr.gov.au/HigherEducation/Policy/teqsa/Pages/TeachingandLearningStandardsDiscussion.aspx>.

[20] Kift, Israel and Field, above n 1, 7.

[21] Legal Admissions Consultative Committee, *Discussion Paper: Reconciling Academic Requirements and Threshold Learning Outcomes* (June 2011) Law Council of Australia <http://www.lawcouncil.asn.au/shadomx/apps/fms/fmsdownload.cfm?file_uuid=D87249EE-A4A7-7C1C-AB5D-21E981BB2928&siteName=lca>.

[22] Huggins, above n 4, 2.

III SELF-MANAGEMENT AND LAW STUDENTS'
PSYCHOLOGICAL DISTRESS

Although other disciplines have also developed a TLO on self-management (or equivalent),[23] there are particular issues facing law schools that underscore the salience and relevance of the self-management TLO for legal education. Chief among these are law students' disproportionately high levels of psychological distress. In this Part we outline recent research on law students' distress and the role that the learning, teaching and assessment of self-management can play in ameliorating this situation.

Recent empirical Australian studies highlight the elevated levels of psychological distress experienced by law students. The most comprehensive of these is a 2009 study by the Brain & Mind Research Institute which conducted a cross-sectional survey of 741 students from 13 Australian universities, 924 solicitors and 756 barristers.[24] The survey results indicate that 35.2 per cent of law students experience high levels of psychological distress, compared with 17.8 per cent of medical students and 13.3 per cent of people aged 18–34 in the general population.[25] The authors comment that these reflect 'a much higher level than expected of reported psychological distress and risk of depression [among law students] on all measures used'.[26] These trends appear to continue into law graduates' working lives, with 31 per cent of solicitors[27] experiencing high levels of psychological distress, a figure that is more than double the rate of 13 per cent for the general population over 17 years of age.[28] These findings reinforce the results of a 2007 survey of over 7500 Australian professionals which found

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[23] For example, the disciplines of accounting and engineering have developed a TLO on self-management, while geography has a TLO on 'self-directing and collaborating'. The final health, medical and veterinary science TLO expects graduates to be able to 'reflect on current skills, knowledge and attitudes, and plan ongoing personal and professional development'. The whole suite of standards booklets for each of the Discipline Groups can be accessed at: Australian Learning and Teaching Council, *Published Standards* (16 May 2011) <http://www.altc.edu.au/standards/published>.

[24] Norm Kelk et al, *Courting the Blues: Attitudes towards Depression in Australian Law Students and Lawyers* (January 2009) Brain and Mind Research Institute, 4 <http://cald.anu.edu.au/docs/Law%20Report%20Website%20version%204%20May%2009.pdf>.

[25] Ibid 12. Similarly, a recent study of students across various disciplines at the University of Adelaide alarmingly found that 'there were more law and mechanical engineering students classified as psychologically distressed than there were not': Catherine Leahy et al, 'Distress Levels and Self-Reported Treatment Rates for Medicine, Law, Psychology and Mechanical Engineering Students: Cross-Sectional Study' (2010) 44(7) *Australian and New Zealand Journal of Psychiatry* 608, 613.

[26] Kelk et al, above n 24, 37.

[27] The proportion of surveyed barristers experiencing psychological distress was significantly lower than that for solicitors at 16.7 per cent: ibid 12.

[28] Ibid 12.

that 'respondents from the legal professions particularly, were more likely to report moderate to severe symptoms of depression when compared with the total sample'.[29] These Australian studies, which reflect well-documented trends amongst American law students and legal professionals,[30] highlight that psychological wellbeing is a significant issue requiring prompt action from both law schools and legal employers.

Two recent studies conducted by individual Australian law schools provide further insights into the possible causes and timing of law students' distress. A 2009 paper by Tani and Vines examines data collected from 2528 students from 10 disciplines at the University of New South Wales about 'their attitudes to their experience and expectations of their university education'. The aim of this data collection was to identify aspects of law students' attitudes towards their education that may differ for students from other disciplines and help to account for the disproportionately high levels of distress, particularly depression, among law students.[31] The authors' data indicate that law students are, among other things, more likely to have chosen their degree for extrinsic reasons, including family pressures, the university's reputation, and their future career prospects; are less inherently interested in the content of their degree; and place a stronger emphasis on getting high grades.[32] Tani and Vines posit a link between these attitudes and a number of factors identified in the psychology literature as contributing to depression; namely, low levels of personal autonomy, high levels of competitiveness and lack of meaningful social connectedness.[33] Another recent study by Hall, Townes O'Brien and Tang presents preliminary empirical findings indicating that the deleterious effects of legal education on law students begin in the first year of law school.[34] The authors

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[29] Beaton Consulting, *Annual Professions Survey 2007: Short Report* (2007) 2. See also Christopher Kendall, *Report of the Ad Hoc Committee on Psychological Distress and Depression in the Legal Profession* (March 2011) Law Society of Western Australia <http://www.lawsocietywa.asn.au/client/multimedia/News/Report%20of%20PDD%20Ad%20Hoc%20Cttee%20FINAL%20Public%20Release%2016%20May%202011.pdf>.

[30] See, eg, G A Benjamin et al, 'The Role of Legal Education in Producing Psychological Distress among Law Students and Lawyers' (1986) 11 *American Bar Foundation Research Journal* 225; M M Dammeyer and N Nunez, 'Anxiety and Depression among Law Students: Current Knowledge and Future Directions' (1999) 23 *Law and Human Behavior* 55; Kennon Sheldon and Larry S Krieger, 'Does Legal Education Have Undermining Effects on Law Students? Evaluating Changes in Motivation, Values, and Well-Being' (2004) 22 *Behavioral Sciences and the Law* 261.

[31] Tani and Vines, above n 4, 4.

[32] Ibid 12–25.

[33] Ibid 7–8, 25–30.

[34] Hall, Townes O'Brien and Tang, above n 4. These findings are complemented by a recent report produced by law student representatives from the Australian National University: Annan Boag et al, *Breaking the Frozen Sea: The Case for Reforming Legal Education at the Australian National University* (18 April 2011) Law School Reform <http://www.lawschoolreform.com/>.

analysed survey responses from 389 law students at the Australian National University from 2009–10 and found that the first year of legal education contributes to, among other things, higher levels of stress and distress amongst law students.[35]

American studies have also documented that law students' elevated symptoms of distress developed in their first year of law school continue throughout their law degrees[36] and into their early careers as legal professionals.[37] In their study of 320 law students and alumni from the University of Arizona Law School, Benjamin et al examined law students' psychological wellbeing before, during and after their formal legal education.[38] They found that pre-law students experienced symptoms of psychological distress[39] within a normal range, while students in the first and third years of law school scored significantly higher on every distress symptom dimension, as did recent law graduates.[40] More recent research by Sheldon and Krieger similarly demonstrated that, at the beginning of their legal education, law students at Florida State University had higher than average levels of subjective wellbeing which had deteriorated precipitously by the end of the first year of law school,[41] and then remained constant when measured at the end of the second and third years of their legal education.[42] Although legal education in America is typically offered as a three-year graduate degree and many law schools in Australia offer four to five year undergraduate law degrees, there are significant similarities between the two legal education systems. These include a 'predominant focus on doctrinal legal theory and analysis, emphasis on "thinking like a lawyer", and privileging of academic grades and honours as the chief predictors of subsequent success'.[43] It is therefore reasonable to assume that, as significant numbers of law students in both jurisdictions experience elevated distress levels in the first year of legal education, the American trend of continued student distress throughout the law degree is also likely to be replicated in an Australian context.

The recent Australian research on the incidence, putative causes and onset of law students' psychological distress detailed above adds weight to the importance of learning, teaching and assessing

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[35]   Hall, Townes O'Brien and Tang, above n 4.
[36]   Benjamin et al, above n 30, 246; Sheldon and Krieger, 'Does Legal Education Have Undermining Effects on Law Students?', above n 30, 274.
[37]   Benjamin et al, above n 30, 246.
[38]   Ibid 228.
[39]   The symptoms of psychological distress measured in this study included 'obsessive-compulsive behavior, interpersonal sensitivity, depression, anxiety, hostility, phobic anxiety, paranoid ideation, and psychoticism (social alienation and isolation)': ibid 246.
[40]   Ibid 240.
[41]   Sheldon and Krieger, 'Does Legal Education Have Undermining Effects on Law Students?', above n 30, 272.
[42]   Ibid 274.
[43]   Huggins, above n 4, 27, citing James, above n 4, 127.

self-management in law schools. This issue was discussed at length in the consultation process for the development of TLO 6 on self-management and is acknowledged in the notes on TLO 6 in the *Standards Statement*, where it is stated:

> Legal employers have identified the need for graduates to have emotional intelligence — the ability to perceive, use, understand, and manage emotions. The TLOs encourage the development of emotional intelligence by attending to both self awareness (TLO 6) and the need to communicate and work with others (TLO 5). In the LTAS project's consultations with the profession, this element of the TLO was acknowledged as critical to professional practice because it incorporates a capacity for resilience through personal awareness and coping skills that might include openness to assistance in times of personal and professional need.[44]

Responses to TLO 6 in the consultation process for the TLOs included:
- 'Self management is fundamental to surviving and thriving in any type of legal practice — from policy to commercial.'
- 'This TLO emphasises important elements of legal professionalism such as independence and being proactive.'
- 'I think it's really fabulous that this is included among the six TLOs.'
- 'This TLO is consistent with the AQF level 7 requirements, it is critical that graduates take responsibility for their own learning and develop independence.'
- 'This is an excellent inclusion in the threshold learning outcomes for law.'

A self-management TLO also responds to the call of the Australian Law Reform Commission (ALRC), 20 years ago, for reforms to ensure a healthy legal culture.[45] The Commission took the view that a healthy legal culture would be characterised predominantly by its 'honest, open and self-critical nature; respect for, and effective communication among, stakeholders; willingness to adapt and to experiment (or, to put it another way, lack of resistance to change); commitment to life-long learning as an aspect of professionalism; and a deep ethical sense and commitment to professional responsibility'.[46] TLO 6 addresses many of these characteristics, with the ethics and communication elements covered separately by TLO 2 and TLO 4, respectively.

Most critically, in terms of the significance of TLO 6 for contemporary legal curricula, the ALRC's recommendations in

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[44]   Kift, Israel and Field, above n 1, 23.
[45]   Australian Law Reform Commission (ALRC), *Managing Justice*, Report No 89 (1990).
[46]   D Weisbrot, 'What Lawyers Need to Know, What Lawyers Need to Be Able to Do: An Australian Experience' (2002) 1 *Journal of the Association of Legal Writing Directors* 21, 23.

its *Managing Justice* report 'also called for a re-articulation of the curriculum in the university law schools, away from the dominant focus on mastering bodies of substantive law, and towards the development of high order professional and problem-solving skills'.[47] TLO 6 emphasises the important place of self-management skills in legal curricula, and it responds to the ALRC's recommendation that legal education be re-oriented around 'what lawyers need to be able to do'.[48] In contemporary legal practice, it is critical that lawyers are able to self-manage. That is, it is critical that they are able to learn and work independently; that they are able to reflect on and assess their own capabilities and performance; and that they are able to make use of feedback as appropriate in order to support their personal and professional development.

The importance of this skills base is only reinforced by recent research which shows a need to actively address law students' high levels of distress. Timely, yet considered, responses to developing and delivering learning, teaching and assessment strategies for the self-management TLO are therefore necessary. The aim of promoting law students' wellbeing through implementing TLO 6 strongly informs the strategies proposed in the following parts.

IV Student Engagement: A Conceptual Framework for Learning, Teaching and Assessing the Self-Management TLO

Student engagement is increasingly understood as a critical issue for the overall quality of higher education in Australia and internationally.[49] This is because high quality student learning, and deep learning outcomes, are made possible by curriculum design that engages students, and provides supportive, integrated and coordinated learning environments.[50] The importance of a conceptual framework focused on student engagement in intentional curriculum design for learning, teaching and assessing the self-management TLO in legal education cannot be overstated.

The Australasian Survey of Student Engagement (AUSSE) defines student engagement as 'students' involvement with activities

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[47] Ibid 24, citing ALRC, above n 45, recommendation 2.
[48] Ibid 37, citing ALRC, above n 45, [2.21] and R MacCrate et al, *Legal and Professional Development — An Educational Curriculum* (American Bar Association, 1992). See also R Stuckey et al, *Best Practices for Legal Education: A Vision and A Road Map* (Clinical Legal Education Association, 2007) <http://www.cleaweb.org/best-practices>.
[49] Australian Council for Educational Research (ACER), *Attracting, Engaging and Retaining: New Conversations about Learning: Australasian Survey of Student Engagement Report* (2008) 1 <http://www.acer.edu.au/documents/AUSSE_ASER-Report.pdf>. See also the equivalent survey conducted in the US: *National Survey of Student Engagement* <http://nsse.iub.edu/>.
[50] P Ramsden, *Learning to Teach in Higher Education* (Routledge Falmer, 2nd ed, 2003).

and conditions likely to generate high quality learning'.[51] The AUSSE 2010 Report states that 'student engagement is an idea focused on students and their interactions with their institution. It rests on the premise that learning is influenced by how an individual participates in educationally purposeful activities, and on how institutions and staff generate conditions to stimulate involvement'.[52] McInnes has said that 'engagement occurs where students feel they are part of a group of students and academics committed to learning, where learning outside of the classroom is considered as important as the timetabled and structured experience, and where students actively connect to the subject matter'.[53] Engagement facilitates students' connection with their university learning experiences, and each other, and can act as an antidote to the documented indicia of depression and psychological distress, including low levels of personal autonomy, high levels of competitiveness and a lack of meaningful social connectedness.[54]

The importance of promoting student engagement has been established as critical in supporting student transition to the first year of legal education, and as one component of Kift's transition pedagogy.[55] It has also been established as a significant curriculum design principle for the final year of law and for an effective capstone experience.[56] And yet, the AUSSE 2010 Report confirms that Australian universities are not performing well in key areas of

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[51]   ACER, *Attracting, Engaging and Retaining*, above n 49, 1.

[52]   ACER, *AUSSE 2010 Australasian University Executive Summary Report* (2010) 1 <http://www.acer.edu.au/documents/aussereports/AUSSE_2010_Australasia University_Executive_Summary.pdf>.

[53]   C McInnis, 'New Realities of the Student Experience: How Should Universities Respond?' (Speech delivered at the Annual Forum, European Association for Institutional Research, Limerick, 24–27 August 2003) 9.

[54]   See, eg, Tani and Vines, above n 4, 4, 8.

[55]   S Kift, *Articulating a Transition Pedagogy to Scaffold and to Enhance the First Year Student Learning Experience in Australian Higher Education*: *Final Report for ALTC Senior Fellowship Program* (Australian Learning and Teaching Council, 2009) <http://www.altc.edu.au/resource-first-year-learning-experience-kift-2009>. See also S Kift, 'The Next, Great First Year Challenge: Sustaining, Coordinating and Embedding Coherent Institution-Wide Approaches to Enact the FYE as "Everybody's Business"' (Paper presented at the 11th First Year in Higher Education Conference, Hobart, 30 June – 2 July 2008) <http://www.fyhe.com.au/past_papers/papers08/FYHE2008/content/pdfs/Keynote%20-%20Kift.pdf>; S Kift and K Nelson, 'Beyond Curriculum Reform: Embedding the Transition Experience' in A Brew and C Asmar (eds), *Higher Education in a Changing World: Research and Development in Higher Education: Proceedings of the 28th HERDSA Annual Conference, Sydney, 3–6 July 2005* (Higher Education Research and Development Society of Australasia, 2005) 225; K-L Krause et al, *The First Year Experience in Australian Universities: Findings from a Decade of National Studies* (Australian Department of Education, Science and Training, 2005) <http://www.griffith.edu.au/__data/assets/pdf_file/0006/37491/FYEReport05.pdf>.

[56]   Sally Kift et al, 'Conceptualising a Capstone Experience for Law Students' (Paper presented at the Australasian Law Teachers' Association Conference 2010 — Power, Regulation and Responsibility: Lawyers in Times of Transition, Auckland, 4–7 July 2010).

student engagement. For example, on a performance measure metric of 1–100, performance in the area of active learning falls below 40; and performance in the areas of student and staff interactions, and enriching educational experiences, hovers around 20.[57]

Biggs identifies motivation, climate and learning activity as three categories of design orientation strategies that are central to achieving student engagement.[58] In the parts below, these strategies are discussed as providing foundational curriculum design support for the learning, teaching and assessment of TLO 6 on self-management. For the purposes of the discussion in Parts V and VI below, student engagement in turn will be shown as foundational to supporting student autonomy and reflective practice. Promoting student autonomy and reflective practice are key strategies for assisting students to learn and work independently, to build their capacity to reflect on and assess their own capabilities and performance, and to develop their ability to make use of feedback as reflected in the elements of TLO 6.

A *Motivating Student Learning for Acquisition of the Self-Management TLO*

Legal curricula must be grounded in learning, teaching and assessment approaches that *motivate* students to learn if deep, effective and engaged learning is to take place around self-management knowledge, skills and attitudes. Four key areas of focus in curriculum design can assist with motivating student learning for acquisition of the self-management TLO.

First, it is important to engage the interest of students in the *content* aspect of legal curricula that connects with independent learning, reflection on their capabilities and performance, and their use of feedback. Ensuring that the curriculum content relevant to these areas is interesting, in the sense of its personal and professional relevance, and that students enjoy and are stimulated by the content, is consistent with Ramsden's principle of effective teaching which concerns promoting student interest in their learning.[59] Motivating students in this way requires providing skilled explanation.[60] For this reason, implementing TLO 6 in legal curricula requires experienced and knowledgeable staff with a commitment to this program learning outcome.[61]

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[57] ACER, *Attracting, Engaging and Retaining*, above n 49, figure 2.
[58] Biggs and Tang, above n 6, 56.
[59] Ramsden, above n 50, 96.
[60] Ibid.
[61] Marychurch, above n 16, 21.

Second, students will be motivated to learn and acquire the self-management TLO where law schools establish communities of learning practice that explicitly recognise the importance of independent learning, the process of reflection on students' capabilities and performance, and the constructive use of feedback in legal education.[62] Socio-constructivist theories have established the importance of community and interactive forces to learning.[63] Interactive, discursive and student-centred approaches are therefore critical to achieving motivation through student engagement with the elements of TLO 6.[64] Laurillard's 'conversational framework' is a useful conceptual tool in designing such approaches to enable student acquisition of the self-management TLO.[65] This framework is based on 'iterative dialogue' that is 'discursive, adaptive, interactive and reflective'.[66] Through ensuring the development of communities of learning around self-management, students can be motivated to question, unpack and explore self-management concepts through critical dialogue in both face-to-face and online contexts. Such an approach is consistent with Ramsden's fifth principle of effective teaching which concerns the creation of a learning environment that encourages independence, control and active engagement. Ramsden's principle is grounded in the literature that highlights the greater potential of cooperative learning for achieving engaged and deep learning, compared with competitive and individualistic learning.[67]

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[62] On the creation of learning communities, see, eg, F Gabelnick and J MacGregor, *Learning Communities: Creating Connections among Students, Faculty, and Disciplines* (Jossey-Bass, 1990); John Tagg, *The Learning Paradigm College* (Jossey-Bass, 2003); Etienne Wenger, Richard McDermott and William M Snyder, *A Guide to Managing Knowledge: Cultivating Communities of Practice* (Harvard Business School Press, 2002); Milton D Cox and Laurie Richlin, *Building Faculty Learning Communities* (Jossey-Bass, 2004); Jean MacGregor, Vincent Tinto and Jerri Holland Lindblad, 'Assessment of Innovative Efforts: Lessons from the Learning Community Movement' in Linda Suskie (ed), *Assessment to Promote Deep Learning: Insight from AAHE's 2000 and 1999 Assessment Conferences* (American Association for Higher Education, 2001) 41; V Tinto, 'Enhancing Learning via Community' (1997) 13(1) *Thought and Action* 53.

[63] See J G Donald, 'Motivation for Higher Order Learning' in M Theall (ed), *Motivation from Within: Approaches for Encouraging Faculty and Students to Excel* (Jossey-Bass, 1999) 27. See also R J Wlodkowski, 'Motivation and Diversity: A Framework for Teaching' in M Theall (ed), *Motivation from Within: Approaches for Encouraging Faculty and Students to Excel* (Jossey-Bass, 1999) 7.

[64] Biggs and Tang, above n 6; Ramsden, above n 50; ACER, *Attracting, Engaging and Retaining*, above n 49.

[65] D Laurillard, *Rethinking University Teaching: A Conversational Framework for the Effective Use of Teaching Technologies* (Routledge Falmer, 2nd ed, 2002) 86–9.

[66] Ibid 86.

[67] Ramsden, above n 50, 101.

Third, students can be motivated to learn and acquire the self-management TLO by harnessing student engagement with assessment, and by using assessment *for* learning.[68] The provision of appropriate assessment is another of Ramsden's principles of effective teaching in tertiary environments. Curriculum design for TLO 6 should therefore pay attention to using assessment to encourage independent learning, to promote reflection on students' capabilities and performance, and to highlight the importance of the constructive use of feedback. Assessment expectations and requirements should be communicated clearly and explicitly to students. This will work to motivate student learning and acquisition of self-management skills, knowledge and attitudes by reducing and relieving student anxiety and confusion, and by letting students into the 'secrets' of assessment success.[69] Notably, these skills will also be relevant beyond the university experience. As Boud has argued, an additional important purpose of assessment is 'equipping students for the learning and assessing they will need to do *after* completing their course and the challenges they will face after graduation'.[70]

Fourth, an important way to motivate student learning and acquisition of the self-management TLO is to capitalise on effective feedback techniques. Effective feedback involves providing quality and timely feedback to students, both formally and informally.[71] Ramsden's third principle of effective teaching emphasises the importance of quality feedback on assessment tasks. Ramsden comments that, for students, 'of all the facets of good teaching that are important to them, feedback on assessed work is perhaps the most commonly mentioned'.[72] The AUSSE data also consistently indicates that receiving feedback on academic performance is a critical measure of student satisfaction with their tertiary education.[73]

An important aspect of feedback, when it is designed effectively and provided efficiently, is that it demonstrates concern for,

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[68]   K-L Krause, 'On Being Strategic about the First Year' (Speech delivered at the Queensland University of Technology First Year Forum, Brisbane, 5 October 2006).

[69]   D Nicol, *Principles of Good Assessment and Feedback: Theory and Practice* (2007) REAP International Online Conference on Assessment Design for Learner Responsibility <http://www.iml.uts.edu.au/assessment-futures/elements/Nicol_Principles_of_good_assessment_and_feedback.pdf >.

[70]   David Boud, *Assessment Futures* (30 March 2011) University of Technology Sydney <http://www.iml.uts.edu.au/assessment-futures/>.

[71]   Ramsden, above n 50, 96.

[72]   Ibid.

[73]   See, eg, ACER, 'Beyond Happiness: Managing Engagement to Enhance Satisfaction and Grades' (2008) 1 *Research Briefing: Australasian Survey of Student Engagement* 1, 5, figure 4 <http://www.acer.edu.au/documents/aussereports/AUSSE_Research_Briefing_Vol1.pdf>.

[74]   C McInnes and R James, *First Year on Campus: Diversity in the Initial Experiences of Australian Undergraduates* (Australian Government Publishing Service, 1995).

and interest in, the progress of students.[74] This is the essence of Ramsden's second principle of effective teaching which recognises that effective tertiary teachers demonstrate concern and respect for their students and for student learning. The provision of feedback is therefore an opportunity to promote student engagement with the self-management TLO by making students aware that academics are both conscious, and also considerate, of them and their learning success.[75] Further practical strategies for effective assessment and feedback practices that will promote student engagement with the self-management TLO are offered in Part V.

B *Providing an Engaging Learning Climate for Student Acquisition of TLO 6*

The second category of design orientation offered by Biggs as central to achieving student engagement is providing a positive *learning climate* for student engagement. This category connects with Ramsden's fifth principle of effective teaching which calls for the creation of a learning environment that encourages independence, control and active engagement. First, the provision of an engaged learning climate at law school requires an understanding of, and response to, the diversity of law students and their learning styles. Curriculum design for TLO 6 must therefore be supported by the structure and framework of an intentional student experience across the entire legal curriculum — from the first year to the final year — that explicitly caters for student difference. In order to engage students optimally with their learning, and so that they can acquire the self-management TLO across the curriculum, this experience should include some acknowledgement of the diversity of students' broader social, cultural and personal circumstances. In addition to inclusive curriculum design, this might also be achieved through career exploration that acknowledges that learners have different motivations for study or through discussion of the range of legal professional identities and career pathways.

Second, providing an engaged learning climate requires effective practical approaches and interventions. For example, practical strategies that promote a positive learning environment include: the creation of dedicated student learning spaces, as well as common rooms and social spaces; ensuring that the curriculum incorporates a coordinated, integrated and scaffolded approach to learning, teaching and assessing the self-management TLO across the year levels; ensuring the design of an authentic curriculum climate; promoting greater opportunities for staff–student interaction; and

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[75] Ramsden, above n 50, 97.

the integration of university support services into the law school context.[76] Providing an engaged learning climate will address student feelings of isolation, lack of support, or an absence of a sense of belonging or institutional fit, simultaneously enhancing student learning for acquisition of the self-management TLO and fostering law students' psychological wellbeing.

C *Promoting Student Engagement with the Self-Management TLO through Learning Activity*

Biggs' third category of curriculum design orientation that is central to achieving student engagement with the self-management TLO involves promoting *learning activity*. Biggs identifies 'learner activity and interacting with others' as two critical characteristics of rich, and therefore engaging, learning and teaching environments.[77] Tinto has consistently argued that students need to be engaged in active and collaborative, rather than passive, 'spectator sport' learning. Tinto comments that 'shared learning should be the norm, not the exception, (particularly) of the first year experience'.[78] Designing curricula for active learning and engagement with the self-management TLO is therefore critical.

Actively engaging students in their learning is part of Ramsden's fifth principle of effective teaching. In the learning and teaching of self-management, a focus on discursive, active and collaborative learning aimed at engaging students with 'the content of learning tasks' in a way that enables them 'to reach understanding' is important.[79] Engaging learning activities can be teacher-directed, peer-directed or self-directed.[80] Engaged, collective learning of self-management knowledge and skills can occur with activities centred on analysing, synthesising, evaluating and applying self-management knowledge and skills. The AUSSE Reports have consistently indicated that 'higher order forms of learning' — such as, analysis, synthesis, evaluation and application — tend 'to be positively associated with most aspects of engagement'.[81] Laurillard's conversational framework, mentioned above in relation to student motivation, can also be used to support learner activity through providing engaging

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[76] Sally Kift and Rachael Field, 'Intentional First Year Curriculum Design as a Means of Facilitating Student Engagement: Some Exemplars' (Paper presented at the 12th Pacific Rim First Year in Higher Education Conference, Townsville, 29 June – 2 July 2009) <http://www.fyhe.com.au/past_papers/papers09/content/pdf/16D.pdf>.

[77] Biggs and Tang, above n 6, 79.

[78] Tinto, above n 62, 1.

[79] Ramsden, above n 50, 100.

[80] Biggs and Tang, above n 6, 79.

[81] See, eg, ACER, *Attracting, Engaging and Retaining*, above n 49, ix.

layers of discursive interaction. That is, Laurillard's conversational framework can be harnessed to promote student activity through conversation in order to make learning 'lively, dynamic, engaging and full of life'.[82]

The conceptual framework articulated above is relevant to engaging students with each of the six law TLOs. However, the framework is particularly important in relation to the self-management TLO, and in relation to addressing law students' high levels of psychological distress. Engaged students will have a more positive experience of their law school studies and are therefore likely to experience more intrinsic motivations for pursuing their degree. Such motives, which include personal interest and enjoyment, have been empirically shown to correlate with higher levels of self-reported subjective wellbeing among law students.[83] Thus, in addition to being a worthwhile aim in itself, promoting law student engagement with the self-management TLO is desirable in terms of its positive flow-on consequences for student wellbeing.

Having established a conceptual framework for the learning, teaching and assessment of TLO 6, the next two parts of this article consider practical approaches to implementing the self-management TLO that are grounded in the theory of student engagement. The first strategy focuses on promoting student autonomy. The second focuses on the learning, teaching and assessment of reflective practice.

V   LEARNING, TEACHING AND ASSESSING THE SELF-MANAGEMENT TLO THROUGH CURRICULUM DESIGN THAT PROMOTES STUDENT AUTONOMY

This Part deals with ways in which curriculum design can be used to support student autonomy and engage students with the self-management TLO. First, it is useful to elucidate the link between student autonomy and self-management, and the ways that law school environments can promote both students' self-management capacities and their wellbeing, in order to support student autonomy.

A three-year longitudinal study conducted by Sheldon and Krieger[84] provides empirical evidence of the links between social and institutional environments, the level of 'autonomy support' provided by these environments, and law students' psychological wellbeing. In a legal education context, autonomy support has three

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[82]   R Cannon and D Newble, *A Handbook for Teachers in Universities and Colleges: A Guide to Improving Teaching Methods* (Kogan Page, 4th ed, 2000) 71.

[83]   Sheldon and Krieger, 'Does Legal Education Have Undermining Effects on Law Students?', above n 30.

[84]   Kennon M Sheldon and Larry S Krieger, 'Understanding the Negative Effects of Legal Education on Law Students: A Longitudinal Test of Self-Determination Theory' (2007) 33 *Personality and Social Psychology Bulletin* 883.

main features: (a) a degree of choice for students within the inherent constraints imposed by some tasks and situations; (b) providing a meaningful rationale to students when no choice is possible; and (c) 'perspective taking', in which people in authority positions acknowledge, respect and take into consideration the viewpoints of subordinates.[85] By contrast, 'controlling' law school environments deny students opportunities for meaningful choices and feedback provision. Sheldon and Krieger's study found a positive correlation between law students' perceptions of the levels of autonomy support within their law school environment, and their psychological need satisfaction. This has positive flow-on consequences for their 'self-determined career motivation', psychological wellbeing and levels of academic achievement.[86]

Significantly, where legal education environments provide autonomy support, law students have an opportunity to articulate their points of view, take responsibility for the choices they make and understand and integrate the rationale behind the aspects of their legal education over which they have no control. All of these factors simultaneously predict and reflect a capacity for self-management. Thus, it is pertinent to consider how Australian legal curricula can be designed to provide autonomy support to law students and thereby promote their self-management capacities and wellbeing. The following discussion outlines how different aspects of curriculum design can be harnessed to support law students' autonomy and allow them scope to develop and exercise their self-management skills.

A   *Degree of Choice in Assessment Tasks*

Assessment that is designed to provide law students with a degree of choice within the inherent constraints of a formal legal education aligns with part (a) of the self-management TLO by promoting law students' abilities to 'learn and work independently'. Moreover, as described by Sheldon and Krieger, it reflects one of the features of an environment that provides autonomy support.[87] As two authors of this article have previously noted:

> Assessment can be harnessed as a particularly effective tool for assisting students to become independent, efficacious learners. Students who are independent and self-confident in their learning are more likely to be able to cope with the stresses of tertiary study.[88]

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[85]   Ibid 884.
[86]   Ibid 892.
[87]   Ibid 884.
[88]   Rachael Field and Sally Kift, 'Addressing the High Levels of Psychological Distress in Law Students through Intentional Assessment and Feedback Design in the First Year Law Curriculum' (2010) 1 *International Journal of the First Year in Higher Education* 65, 71.

One of the ways in which assessment can encourage law students' independent learning and autonomy is by providing student choice around some aspects of their assessment tasks.[89] When students are given choices about their assessment, they may experience a sense of 'empowerment' with regard to their learning at university.[90] Nicol argues that student choice in relation to the 'topic, method, criteria, weighting or timing'[91] of their assessments is important for giving students a sense of flexibility and control in relation to their studies. Exercising choice in relation to these issues also encourages independence, engagement and active control in line with Ramsden's fifth principle of effective teaching. Practical strategies for implementing this approach include allowing law students to choose the order in which required assessment tasks are to be completed, their preferred medium for delivery, and encouraging them to engage actively in the process of assessment design (for example, drafting an essay topic to reflect one or more of the subject aims).[92] Of course, a balance must be struck between giving students some autonomy in relation to assessment and feedback, and teacher time and resource constraints.[93] Further, there are often institutional constraints requiring assessment structures to be approved prior to a subject being offered in order to ensure that students are provided with advance notice of the assessment requirements at the time of enrolment. However, despite workload, resourcing and institutional constraints, whenever possible, students should be allowed some leeway to shape their assessment in ways that are meaningful to them. This approach can enhance student engagement and encourage independent learning approaches,[94] while allowing students to cultivate their self-management capacities.

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[89] Ibid. While the authors propose this strategy for the first year law school curriculum, it is arguably equally as relevant in later years of the law degree, reflecting the TLOs' emphasis on a 'whole-of-curriculum' approach to learning, teaching and assessment: Kift, Israel and Field, above n 1, 9.

[90] David Nicol, *Transforming Assessment and Feedback: Enhancing Integration and Empowerment in the First Year* (2009) Quality Assurance Agency for Higher Education, 6, 31 <http://www.enhancementthemes.ac.uk/documents/firstyear/First_Year_Transforming_Assess.pdf>. Empowerment, which can be defined as 'equipping the first-year student with the competency to learn effectively', can be distinguished from engagement, which 'concerns a student's commitment and motivation to study': Terry Meyes, *Quality Enhancement Themes: The First Year Experience* (2009) Quality Assurance Agency for Higher Education, 4 <http://www.enhancementthemes.ac.uk/documents/firstyear/FirstYearOverview.pdf>.

[91] Nicol, *Transforming Assessment and Feedback*, above n 90, 31.

[92] Kift and Field, above n 76.

[93] Nicol, *Transforming Assessment and Feedback*, above n 90, 38.

[94] Field and Kift, above n 88, 71.

B *Effective Assessment and Feedback Practices*

It is not always possible or desirable for students to have choice regarding some aspects of their law degree,[95] including required readings and some assessment tasks. Regardless of whether students have some say in their assessment, curriculum design can be used to support student autonomy by clearly setting out what is expected of students in assessment items and providing clear feedback and rationales for marks awarded. Assessment that is clear about what is expected of students, in terms of academic language, conventions and standards for tertiary legal education, allows students to understand what is required of them,[96] and to self-manage their time and study approaches accordingly. For example, the timely provision of criterion-referenced assessment (CRA) sheets, coupled with 'dialogue' to facilitate student understanding of how these marking criteria will be applied, can alleviate student uncertainty and anxiety about what is expected of them in assessment tasks.[97] A 2003 study at Oxford Brookes University indicated that business students who used CRA sheets to assess, mark and give feedback on sample assignments, followed by discussing this process in group workshops, achieved significantly higher marks in their subsequent assessed coursework.[98] Significantly, one year later, the students who had participated in this process continued to achieve better results than non-participants.[99] It is recognised that, initially, designing well written CRA sheets and engaging in dialogue with students about the way in which criteria and standards will be applied may be considered time-consuming for academics. However, this front-end investment in time may soon be offset by efficiencies in marking and the possibility of re-using CRAs with minor variations for subsequent assessment tasks. Significantly, such assessment practices enhance students' perceptions of autonomy support, foster their self-management capacities, and facilitate their academic achievement.

Similarly, effective feedback practices can promote law students' ability to self-manage in future assessment tasks. Providing students

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[95] Sheldon and Krieger, 'Understanding the Negative Effects of Legal Education on Law Students', above n 84. For example, there are critical aspects of law school curricula in Australia, such as assessing the content of the Priestley 11 core subjects, that may not be negotiable by students. This may be an example of where students may benefit from having the rationale behind these parts of the degree explained to them to facilitate their integration and internalisation of the necessity of these aspects of their studies: ibid 884.

[96] Field and Kift, above n 88, 69. This aligns with Ramsden's third principle of effective teaching, the provision of appropriate assessment.

[97] Ibid; Assessment Standards Knowledge Exchange (ASKe), *How to Make Your Feedback Work in Three Easy Steps!* (2007) Oxford Brookes University <http://www.brookes.ac.uk/aske/documents/Make%20FeedbackWork.pdf>.

[98] Chris Rust, Margaret Price and Berry O'Donovan, 'Improving Students' Learning by Developing their Understanding of Assessment Criteria and Processes' (2003) 28 *Assessment and Evaluation in Higher Education* 147, 152–3, 156.

[99] Ibid 156.

with clear rationales for the marks they receive on assessment tasks and avenues for future improvement reflects Ramsden's principle of effective teaching concerning appropriate assessment. As well as written feedback that 'correct[s] errors, explain[s] technical points, and give[s] positive encouragement', 'tacit understanding about disciplinary content and academic literacy skills'[100] also needs to be shared with students to allow them to self-manage their studies and assessments successfully. Examples of dialogue that can enhance student engagement with written feedback include class discussions of exemplar assignments, providing specific examples of how previous students have used feedback to improve their performance in subsequent assessment tasks, providing a template for assessment tasks allowing students to describe the ways they have applied previous feedback, and providing oral feedback via an audio MP3 file.[101] Such feedback practices engage law students with the requirements and expectations of assessment tasks and, if they are not meeting the requisite standards, provide guidance on what is required for them to do so. Effective feedback promotes students' ability to 'reflect on and assess their own capabilities and performance' and to 'make use of feedback as appropriate' as required under the self-management TLO.

C *Student Provision of Feedback on Learning and Teaching*

Creating opportunities for law students to provide feedback on the learning and teaching environment throughout each subject allows students to exercise and develop their self-management capacities and reflects law teachers' willingness to consider their students' perspectives.[102] While many universities require students to complete formal teacher evaluations at the end of a subject, teachers can also elicit informal, anonymous feedback once or more throughout a semester. Informal feedback can be used to gauge, among other things, how confident students feel in relation to the various knowledge and process-based aspects of the subject that have been covered up to that point; their overall satisfaction with the subject; and any suggestions they have for improvements in the learning and teaching environment that could facilitate *their*

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[100] ASKe, *How to Make Your Feedback Work in Three Easy Steps!*, above n 97, 2.

[101] Ibid; Field and Kift, above n 88; ASKe, *Adopting a Social Constructivist Approach to Assessment in Three Easy Steps!*, Oxford Brookes University <http://www.brookes.ac.uk/aske/documents/SocialConst.pdf>.

[102] See, eg, Gerald Hess, 'Student Involvement in Improving Law Teaching and Learning' (1998) 67 *University of Missouri-Kansas City Law Review* 343; Thomas Angelo and Patricia Cross, *Classroom Assessment Techniques: A Handbook for College Teachers* (Jossey-Bass, 2nd ed, 1993).

own learning.[103] By providing such feedback, students are not merely critiquing the lecturer's teaching practices and the subject's curriculum design, but are taking responsibility for suggesting strategies that could assist their own learning of, and engagement with, the subject materials. Teaching staff can assume responsibility for reporting back to the class on the main themes identified in subject feedback and discuss 'the adjustments *they and students* can make to improve learning'.[104] In this way, teaching staff can demonstrate their respect and consideration for students' perspectives, aligning with Ramsden's second principle of effective teaching and Sheldon and Krieger's third precondition for a learning environment that provides autonomy support described above.[105] It is acknowledged that, logistically, such an exercise will be more feasible for tutorial groups or small, seminar-style classes than for large lecture cohorts. When put into place, however, this simple process may simultaneously provide students with an opportunity to articulate their viewpoints and demonstrate their ability to 'reflect on and assess their own capabilities and performance'.[106] It may also enhance students' sense of agency and empowerment in their learning environment, and reinforce that learning is a shared responsibility between teaching staff and students.

D *Authentic Assessment and Self-Management*

Enhancing student interest in, and engagement with, program content by designing authentic assessment tasks is another avenue through which law teachers can take into account diverse student perspectives and promote self-management of their learning and careers. Authentic assessment tasks can be defined as 'assessment practices that are closely aligned with activities that take place in real work settings, as distinct from the often artificial constructs of university courses'.[107] As authentic assessment tasks reflect the realities of work and practice, they are more 'culturally, relational[ly], and vocational[ly]' relevant to, and motivating for, students.[108] Reducing reliance on assessment tasks that are purely 'artificial constructs of university courses'[109] promotes law student

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[103] For further discussion and suggestions on how to develop and utilise teacher-designed feedback forms see Angelo and Cross, above n 102, 330–3.

[104] Ibid 330 (emphasis added).

[105] See Sheldon and Krieger, 'Understanding the Negative Effects of Legal Education on Law Students', above n 84, 884.

[106] As reflected in part (b) of the self-management TLO outlined above.

[107] D Boud and N Falchikov, *Rethinking Assessment in Higher Education: Learning for the Longer Term* (Routledge, 2007) 23.

[108] Field and Kift, above n 88, 71; *Sally Kift,* '21st Century Climate for Change: Curriculum Design for Quality Learning Engagement in Law' (2008) 18 *Legal Education Review* 1.

[109] Boud and Falchikov, above n 107, 23.

autonomy by providing engaging[110] and career-relevant experiences. Examples of authentic assessment tasks in legal education include asking students to write a report comparing their classroom learning with their observations of courtroom practice, and emulated trial processes where students simulate an appeal on an issue of law or examine and cross-examine their opponent's witness.[111]

Law students' sense of autonomy, purpose and motivation in relation to their law degrees and future careers may be enhanced by assessment tasks that introduce them to the types of issues faced in the real world of legal practice. Exposed to some of the realities of legal practice, law students are better placed to make informed, volitional choices about their law studies and careers, including choices about electives and graduate opportunities.[112] Significantly, this supports self-management by providing experiences that can inform students' autonomous and authentic decision-making. Since many law graduates pursue careers outside legal practice, authentic assessment tasks may also assist students' ability to self-manage their university studies (for example, choice of electives) and early career decisions by clarifying whether legal practice will be an appropriate fit for them. Thus, authentic assessment tasks align with the overall purpose of the self-management TLO, as well as the specific elements of part (b) referring to law graduates' abilities to 'reflect on and assess their own capabilities and performance … to support personal and professional development'.

This discussion has highlighted the ways in which curriculum design can promote law students' self-management capacities and perceptions of autonomy support in the law school environment, thereby facilitating higher levels of student engagement, wellbeing and academic achievement.[113] The types of learning, teaching and assessment strategies outlined above highlight that facilitating the development of law students' self-management capacities is a shared responsibility between law teachers and students. Further, as argued by Marychurch in the GPG for TLO 6, a whole-of-curriculum approach is required:

> The level of student autonomy needs to be gradually increased throughout the degree, such that by graduation students are able to demonstrate that they are both capable of learning and working independently, and of constructively reflecting on their own performance and utilising

[110] See discussion of Ramsden's first principle of effective teaching — promoting students' interest in their learning — above.

[111] Kelley Burton, 'Does the Summative Assessment of Real Work Learning Using Criterion-Referenced Assessment Need to Be Discipline-Specific?' (Paper presented at the ATN Assessment Conference on Assessment in Different Dimensions, Royal Melbourne Institute of Technology, 19–20 November 2009).

[112] Kift, 'The Next, Great First Year Challenge', above n 55.

[113] Sheldon and Krieger, 'Understanding the Negative Effects of Legal Education on Law Students', above n 84, 894.

feedback from others to proactively address the areas of their lives that need attention or development.[114]

In addition, acquiring reflective practice skills can further support students taking responsibility for their development and attainment of self-management skills.

VI LEARNING, TEACHING AND ASSESSING THE SELF-MANAGEMENT TLO THROUGH CURRICULUM DESIGN THAT SUPPORTS REFLECTIVE PRACTICE

The self-management TLO is a relatively new area of focus for Australian legal education. It creates an imperative for law schools to teach outside the 'technical rational'[115] confines of the substantive, doctrinal content of law, and to engage with the learning and teaching of personal and professional skills.[116] For this reason, intentional and targeted strategies for addressing the different elements of TLO 6 are required. In Part V above, possible curriculum design strategies were considered for learning and teaching and, in particular, for assessing the self-management TLO through promoting student autonomy. This final Part proposes reflective practice as a curriculum design strategy to promote student engagement with TLO 6. In particular, this Part focuses on the potential for reflective practice to be harnessed to support student learning of the ability to reflect on and assess their own capabilities and performance, and also the ability to make use of feedback in ways that will support their personal and professional development.

Reflective practice is a 'contested concept' that is 'open to many different interpretations'.[117] Kift describes reflection as 'a metacognitive skill in which greater awareness of, and control over, the student's learning process is generated'.[118] Neumann states that reflective practice is 'an art' in itself.[119] Schön's theory of reflective

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[114] Marychurch, above n 16, 10.

[115] D A Schön, *The Reflective Practitioner: How Professionals Think in Action* (Basic Books, 1983); D A Schön, *Educating the Reflective Practitioner* (Jossey-Bass, 1987).

[116] Weisbrot, above n 46; S Kift, 'Lawyering Skills: Finding Their Place in Legal Education' (1997) 8 *Legal Education Review* 43.

[117] O McGarr and J Moody, 'Scaffolding or Stifling? The Influence of Journal Requirements on Students' Engagement in Reflective Practice' (2010) 11(5) *Reflective Practice* 579, 579. See also K Zeichner and D Liston, *Reflective Teaching* (Routledge, 1996); G Bolton, *Reflective Practice: Writing and Professional Development* (Sage, 2nd ed, 2002); S Brookfield, *Becoming a Critically Reflective Teacher* (Jossey-Bass, 1995).

[118] Kift, 'Lawyering Skills', above n 116, 68.

[119] R K Neumann, 'The Reflective Practitioner, and the Comparative Failures of Legal Education' (2000) 6 *Clinical Legal Review* 401, 407.

practice proposes reflection as a tool for managing the 'indeterminate zones of practice' through 'professional artistry' which provides a coping strategy for 'unique, uncertain and conflicted situations of practice'.[120] Schön also sees reflective practice as 'rigorous in its own terms'.[121]

Moon defines reflective practice as follows:

> Reflection is a form of mental processing — like a form of thinking — that we use to fulfil a purpose or to achieve some anticipated outcome. It is applied to relatively complicated or unstructured ideas for which there is not an obvious solution and is largely based on the further processing of knowledge and understanding and possibly emotions that we already possess.[122]

A *Reflective Practice as a Strategy for Implementing the Self-Management TLO*

It has been said that 'the use of reflection in law school teaching acts as both an antidote to the dissociative elements of the law school experience and as a step toward incorporation of the intellectual and the emotional; it is a step toward integration of the whole person into the learning process itself.'[123] To date, however, there has been relatively little attention paid in the legal education literature to 'dealing specifically with (reflective practice)'.[124] When reflective practice in law teaching has been considered, it has usually been in the context of clinical legal education.[125] Kift has commented, for example, that (at least in relation to undergraduate law programs) 'the mechanics' of reflective practice are rarely considered or explained;[126] and Mack et al note that reflective practice is not often specifically dealt with in the literature on legal training.[127]

Although reflective practice may not be commonly harnessed in legal education, the process offers great potential for supporting learning and teaching in the context of TLO 6. In relation to

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[120] Schön, *Educating the Reflective Practitioner*, above n 115.

[121] Ibid 13.

[122] J A Moon, *Reflection in Learning and Professional Development* (Kogan Page, 1999) 99.

[123] F M Anzalone, 'Education for the Law: Reflective Education for the Law' in N Lyons (ed), *Handbook of Reflection and Reflective Enquiry: Mapping Ways of Knowing for Professional Reflective Enquiry* (Springer Science + Business Media, 2010) 85, 86.

[124] K Mack et al, 'Developing Student Self-Reflection Skills through Interviewing and Negotiation Exercises in Legal Education' (2002) 13 *Legal Education Review* 221, 223.

[125] Anzalone, above n 123, 92. See also James, above n 4; P J Cain, 'A First Step toward Introducing Emotional Intelligence into the Law School Curriculum: The "Emotional Intelligence and the Clinic Student" Class' (2003) 14(1) *Legal Education Review* 1.

[126] Kift, 'Lawyering Skills', above n 116, 71.

[127] Mack et al, above n 124, 223.

implementing TLO 6, reflective practice can be defined as a student's capacity to reflect on their own strengths and weaknesses, to learn from constructive criticism and to practice critical reflection by monitoring their own work performance, interpersonal interactions, and personal and professional development.[128] In particular, reflective practice can be used to help students to reflect on their capabilities and performance, and to make constructive use of feedback.

Reflective practice has been identified as a useful tool for encouraging students to become more conscious of their own approaches to learning, to become life-long learners,[129] and to learn self-direction.[130] It can be said that:

> through reflection students learn to scrutinise their own performance, come to terms with what went wrong as well as what went well, contemplate strategies to enhance their success in future work and take responsibility for their learning.[131]

In this context, it is also noteworthy that reflective practice can support the development of students' critical thinking skills.[132] As Anzalone comments, reflective practice 'provides opportunities for students to examine and test beliefs and principles against what is being learned doctrinally.'[133] Students' self-belief and academic confidence can be bolstered through the development of these skills. Such skills can also assist with the construction of the students' nascent legal professional identity. For law students, developing such an identity is important to self-management because it provides them with a sense of meaning and purpose to their studies.[134] The capacity to reflect purposefully on their capabilities and performance may therefore assist students to achieve a sense of fit and place, not only in the tertiary legal education learning environment, but also more broadly in the context of their perspectives on the legal profession itself. This in turn may support students in managing their student experience effectively, and encourage deeper levels of engagement.[135]

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[128] Anzalone, above n 123, 89–93.

[129] Ibid 86.

[130] C E Rees, M Shephard and S Chamberlain, 'The Utility of Reflective Portfolios as a Method of Assessing First Year Medical Students' Personal and Professional Development' (2005) 6(1) *Reflective Practice* 3, 8.

[131] L Fernsten and J Fernsten, 'Portfolio Assessment and Reflection: Enhancing Learning through Reflective Practice' 6(2) (2005) *Reflective Practice* 303, 303–4.

[132] A Brockbank and I McGill, *Facilitating Reflective Learning in Higher Education* (SRHE/Open University Press, 1998).

[133] Anzalone, above n 123, 86.

[134] Hall, Townes O'Brien and Tang, above n 4. See also Anzalone, above n 123, 89.

[135] Rees, Shephard and Chamberlain, above n 130, 8.

As Judith Marychurch notes in the GPG for TLO 6, reflective practice provides a foundation for strengthening emotional intelligence, including self awareness:

> Students who are capable of reflecting on their own learning, work, behaviour, attitudes and feelings will have higher levels of emotional intelligence, which is valued by employers. Reflective learning skills and emotional intelligence will support students, and ultimately graduates and professionals, to sustain a career in the legal profession in the long term.[136]

One of the ways reflective practice promotes emotional intelligence is by assisting students to make constructive use of feedback. It can encourage students to think carefully and critically about appraisals of their work, and to view their academic progress holistically.[137] An ability to understand the 'why' behind what is being learned, and then to make connections with feedback so as to appreciate the ways in which the expectations and criteria of an assessment item were met, and the ways in which they were not attained, is essential to a measured and productive approach to processing feedback. In this context, it is also important that reflective practice can be used to help students to 'make connections between subjects both vertically and horizontally across their degree, which may provide them with an understanding of the cognitive and affective hierarchy of tertiary legal study'.[138] Reflective practice is therefore a useful tool in promoting a constructive approach to processing feedback and an emotionally intelligent grasp of the 'big picture', which can then address much of the uncertainty and stress of legal education.[139]

B *Possible Approach to Developing Reflective Practice to Support Student Acquisition of the Self-Management TLO*

There are a number of learning and teaching activities and approaches that can assist students to develop reflective practice

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[136] Marychurch, above n 16, 10.

[137] Ibid.

[138] J McNamara, R Field and C Brown, 'Learning to Reflect in the First Year of Legal Education: The Key to Surviving Legal Education and Legal Practice' (Paper presented at the 12th Pacific Rim First Year in Higher Education Conference, Townsville, 29 June – 1 July 2009) 6 <http://www.fyhe.com.au/past_papers/papers09/index.html>.

[139] Ibid.

skills.[140] These include self and peer assessment, problem-based learning, reflective essays and journals, and personal development portfolios or ePortfolios.[141] However, for reflective practice to be used as a tool to support student acquisition of self-management skills, it is not appropriate or sufficient simply to adopt one of these strategies in an ad hoc way. Rather, a structured and integrated, whole-of-curriculum, design approach must underpin the inculcation of reflective activities. If this is not done, there is a danger that the activities will present as no more than disconnected exercises, exacerbating uncertainty and stress for students rather than effectively supporting the learning of self-management skills. It is recognised that this may be onerous for individual law teachers to accomplish but it is achievable with a core of staff who are committed to embedding this approach across designated subjects. Below, we propose an approach for using reflective practice to support student acquisition of TLO 6 which is consistent with the conceptual framework of engagement articulated above, and which also addresses the mechanics of the reflective process. This approach draws on the work of McNamara, Field and Cuffe,[142] and McNamara, Field and Brown,[143] and offers a structured process for the learning and teaching of reflective practice, commencing in the first year of legal education.

A positive, structured approach to the learning and teaching of reflective practice involves four steps: first, providing students with instruction on reflection; second, intervening in the students' reflective practice by creating structures and protocols to help them to reflect; third, using criterion-referenced assessment to enhance the design of reflective activities; and fourth, providing feedback on the students' reflections.[144] This approach acknowledges that, in designing reflective activities for the effective acquisition of the self-management TLO, students may have limited experience of

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[140] See, eg, K Pavlovich, E Collins and G Jones, 'Developing Students' Skills in Reflective Practice: Design and Assessment' (2009) 33 *Journal of Management Education* 37; K Smith and H Tillema, 'Clarifying Different Types of Portfolio Use' (2003) 28 *Assessment and Evaluation in Higher Education* 625; E Spalding and A Wilson, 'Demystifying Reflection: A Study of Pedagogical Strategies that Encourage Reflective Journal Writing' (2002) 104 *Teachers College Record* 1393; V Hobbs, 'Faking It or Hating It: Can Reflective Practice Be Forced?' (2007) 8(3) *Reflective Practice* 405; J Moon, *Learning Journals: A Handbook for Reflective Practice and Professional Development* (Routledge, 2006).

[141] See, eg, Vicki Waye and Margaret Faulkner, 'E-Portfolios and Legal Professional Attributes' in Sally Kift et al (eds), *Excellence and Innovation in Legal Education* (LexisNexis, 2011) 239.

[142] J McNamara, R Field and N Cuffe, 'Designing Reflective Assessment for Effective Learning of Legal Research Skills in First Year' (Paper presented at the 11th Pacific Rim First Year in Higher Education Conference, Hobart, 30 June–2 July 2008) <http://www.fyhe.qut.edu.au/past_papers/papers08/FYHE2008/index.html>.

[143] McNamara, Field and Brown, above n 138.

[144] McNamara, Field and Cuffe, above n 142, 3.

reflective practice, and may even be skeptical about its value, or relevance, to tertiary legal education.[145]

The first step of providing instruction on reflection recognises that, for effective learning to occur through reflective activities, the skills to engage in reflective practice must be explicitly taught.[146] It cannot be assumed that students will know how to 'do' reflection. As McNamara et al note, 'students need to be shown what reflective practice is and how to write reflectively for the purposes of their assessment'.[147] Moon also suggests that students should be educated about reflection, and how it is different from more traditional types of learning and assessment.[148] Before law students are asked to engage in reflective practice, it is therefore critical to ensure that they are instructed in how to do so. It is also important that the value of reflection is made explicit to students,[149] so that they understand its relevance and significance to engaged and effective learning generally, and particularly as regards self-management, in the context of their legal education.[150]

The second step of a structured approach to using reflective practice to support student acquisition of TLO 6 involves intervening in the students' reflective practice by creating structures and protocols to guide their reflections. To achieve this, examples should be provided that demonstrate good and poor reflective writing in the context of self-management. Students should also be encouraged to actively and discursively explore what reflection is, and be given opportunities to practice reflective writing so that formative feedback can be provided before they attempt a summative reflective assessment item. For example, to encourage students to commence reflective writing, a practice 'starting exercise' might be used to show how the 'blank page' can be overcome.[151] Structured questions or issue statements can also be used to provide a 'hook' on which the students can begin to develop their reflections. In order to encourage students to start the process of reflective thinking and writing, Moon has identified a number of tools including concept maps, 'post-it' notes and cartoons.[152]

Step three of a structured approach to learning and teaching reflective practice is developing a well-written CRA rubric to enhance the intentional design process. Examples of good practice

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[145] P Brodie and K Irving, 'Assessment in Work-Based Learning: Investigating a Pedagogical Approach to Enhance Student Learning' (2007) 32(1) *Assessment & Education in Higher Education* 11.

[146] T Russell, 'Can Reflective Practice Be Taught?' (2005) 6(2) *Reflective Practice* 199.

[147] McNamara, Field and Cuffe, above n 142, 3.

[148] Moon, *Reflection in Learning and Professional Development*, above n 122.

[149] Stuckey et al, above n 48.

[150] McNamara, Field and Cuffe, above n 142, 3.

[151] Ibid 4.

[152] Moon, *Learning Journals*, above n 140.

in developing reflective practice assessment and CRAs have been collated and are available through the ALTC priority project, 'Developing Reflective Approaches to Writing'.[153]

Once students have engaged in a reflective exercise, it is critical that they receive appropriate levels of feedback on their efforts. Step four of a structured approach to the learning and teaching of reflective practice therefore concerns the provision of feedback. Constructive feedback, always critical to student learning, is particularly central to supporting student learning of self-management skills. Student wellbeing is promoted when students receive constructive feedback on their first reflective attempts and are provided with positive reinforcement and supported in the development of a community of learning within the subject. Yorke, for example, has highlighted the importance of providing early formative feedback, not only as a means of clarifying expectations, but also as a way of reassuring students who may doubt their ability to succeed.[154] Intentionally-designed feedback strategies which provide a constructive commentary on student progress and achievement in reflective practice can therefore be harnessed to address student stress levels associated with academic performance and assessment. These strategies are particularly useful for effective learning and teaching of TLO 6. Generic feedback can also be given that acknowledges the different knowledge, values and perspectives identified by students. Another possible approach is for informal discussions to take place with a 'safe' person, such as a peer mentor or tutor.[155]

In order to implement this stepped approach in a coherent and cohesive manner, and to enable student achievement of robust program learning outcomes on graduation, a whole-of-curriculum approach should be adopted for integrating reflective practice to support graduation-ready acquisition of the self-management TLO. This requires that subjects across both core and elective components of the law curriculum should be purposefully identified as those in which this aspect of TLO 6 will be taught, practised and assessed. An intentional sequencing of reflective practice for self-management learning should then be mapped across the entirety of the law degree, starting with the fundamentals in first year and

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[153] This project is lead by Dr Mary Ryan and Dr Michael Ryan of the Faculty of Education, QUT. See QUT, *Developing Reflective Approaches to Writing (DRAW)* <http://www.qut.edu.au/research/research-projects/developing-reflective-approaches-to-writing-draw>. See also M Ryan, 'Improving Reflective Writing in Higher Education: A Social Semiotic Perspective' (2011) 16(1) *Teaching in Higher Education* 99; M Ryan, 'Spaces of Possibility in Pre-Service Teacher Education' (2011) 32(6) *British Journal of Sociology of Education* (forthcoming); M Ryan and M Ryan, 'Theorising a Model for Teaching and Assessing Reflective Learning in Higher Education' (2011) *Higher Education Research and Development* (forthcoming); Waye and Faulkner, above n 141, 255.

[154] Field and Kift, above n 88.

[155] McNamara, Field and Brown, above n 138, 8.

moving through intermediate to more advanced skilled behaviour in later years. In this regard, Waye and Faulkner refer to 'four levels of reflective writing' that have been derived from teacher education and are transferable generally to other disciplines: 'descriptive writing, descriptive reflection, dialogic reflection and critical reflection'.[156] Harnessing the structured process discussed above, the remainder of this Part will suggest an intentional approach to developing reflective practice in the foundational context of a first-year subject; a critical plank on which a whole-of-curriculum approach may then be built in an integrated and incremental fashion for assurance of students' program learning outcomes.

Once a suitable first-year subject has been identified in a law school's curriculum map as the appropriate locus for embedding reflective practice at the introductory level of developmental sequencing, students should be provided with early and explicit instruction on the reflective process and then engage in an initial reflective activity. This activity could involve them thinking about what they already know regarding a particular subject area of the law and its potential professional application. Students may have some general knowledge, for example, of contentious policy issues associated with the subject area or of some common areas of its practice. In this first reflective activity, students might be asked to reflect, not only on their own understanding of the particular legal area (or lack of such an understanding), but also on how they see their possible future practice in, or engagement with, that area fitting with their own developing sense of professional legal identity.

This first reflective exercise can be used to acknowledge the importance of students' own values and personal beliefs in connection with the more 'technical rational' content of the legal curriculum. Further, it can positively involve students in recognising what they already know 'well enough or whether they need to learn more in order to understand a particular aspect of the law'.[157] This provides students with an early opportunity to self-assess and take responsibility for the development of their own capabilities and performance as required by TLO 6. This reflective task would usually involve students in some sort of reflective writing, such as a journal or reflective critique. However, it should not necessarily be restricted to these forms of reflective writing. Alternative approaches, such as drawings, poetry, cartoons and mind maps could also be encouraged.[158]

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[156] Waye and Faulkner, above n 141, 253.
[157] United Kingdom Quality Assurance Agency, *Subject Benchmark Statement: Law* (2007) 10 [4.15] <http://www.qaa.ac.uk/Publications/InformationAndGuidance/Pages/Subject-benchmark-satatement-Law-2007.aspx>.
[158] McNamara, Field and Brown, above n 138, 8.

It is appropriate that students' first reflective task should be only formatively assessed, so that, for example, students 'have a safe space to think deeply about their own values without concern for how they are perceived by others'.[159] Towards the end of the semester, and in the context of thinking about and responding to feedback previously provided, a second reflective activity should be set that is summatively assessed using the same CRA rubric. This task could involve students engaging with and reflecting on how previous feedback has been acted upon, as well as reflecting on the development of their knowledge and skills in the subject during the semester. On the basis of these reflections, students could also be asked to set goals for their learning in the next semester of their studies, and to think about how their learning in the subject might be used to support learning in future subjects and in future assessment tasks. In this way, students are encouraged to be reflective practitioners who take ownership of their own learning, which is an invaluable skill for the rest of their law degrees and their future working lives.

VII CONCLUSION

In the context of recent research, which has established elevated levels of psychological distress in law students, this paper has reinforced the importance of the self-management TLO for legal education. The paper has offered a conceptual framework for intentional curriculum design for the implementation of the self-management TLO; a framework which is centred on student engagement. It has also suggested some practical strategies for implementing the TLO through approaches that support student autonomy and promote reflective practice.

This paper has focused on intentional design strategies for implementing the self-management TLO from the current curriculum toolbox. In addition to harnessing existing curricular approaches for learning, teaching and assessing self-management, further research is required into pedagogical strategies that address the full range of knowledge, skills and attitudes encapsulated in TLO 6, including emotional intelligence skills.[160] A framework combining these and the strategies outlined above will enhance students' acquisition of this important threshold learning outcome and may ameliorate the disproportionately high levels of psychological distress currently experienced by law students.

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[159] Ibid.

[160] This future direction is the subject of the PhD research through Queensland University of Technology of one of the authors: see above n 5.

It is also recognised that whole-of-curriculum implementation of TLO 6 will require leadership and commitment from most law school staff.[161] As Marychurch notes in the GPG for TLO 6:

> In a context where academic staff are increasingly asked to do more with the same or less resources, achieving buy-in sufficient to fully support the development of self-management skills will be challenging. It will also require practice of self-management skills by academic staff …[162]

Strategies for fostering staff engagement with, and commitment to, the new concepts in TLO 6 and supporting staff self-management are further important avenues for future research.

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[161] Marychurch, above n 16, 21.
[162] Ibid.