

Bond University

Legal Education Review

Volume 36 Issue 1

2026

Legal Education Requires Competence in a GenAI World: Why Legal Knowledge is not Enough

Sonya Willis

The University of Sydney Law School

Amanda Head

Macquarie Law School, Macquarie University

Follow this and additional works at: <https://ler.scholasticahq.com/>



© Copyright the authors.

This work is licensed under a [Creative Commons Attribution-NonCommercial-NoDerivative 4.0 International Licence](https://creativecommons.org/licenses/by-nc-nd/4.0/).

LEGAL EDUCATION REQUIRES COMPETENCE IN A GENAI WORLD: WHY LEGAL KNOWLEDGE IS NOT ENOUGH

SONYA WILLIS,[◇] AMANDA HEAD^{*}

I INTRODUCTION

Generative Artificial Intelligence ('GenAI') reached public availability with the release of conversational tools such as ChatGPT in late 2022, and its capacity to produce plausible legal text rapidly unsettled legal education. GenAI refers to AI systems that generate new content, including text, from large datasets, in response to natural language prompts.¹ A growing body of research reports GenAI output passing law school assessments and examinations, generating serviceable answers to legal hypotheticals, and assisting, or substituting for, students in completing written work.² The immediate concern for

[◇] The University of Sydney Law School

^{*} Macquarie Law School, Macquarie University

¹ United Nations Educational, Scientific and Cultural Organization, *Guidance for Generative AI in Education and Research* (Report, 2023) 8.

² Research on GenAI responding to legal questions includes: Jonathan H Choi and Daniel Schwarcz, 'AI Assistance in Legal Analysis: An Empirical Study' (2024) 73(2) *Journal of Legal Education* 384; Lee F Peoples, 'Artificial Intelligence and Legal Analysis: Implications for Legal Education and the Profession' (2025) 117(1) *Law Library Journal* 52; Armin Alimardani, 'Borderline Disaster: An Empirical Study on Student Usage of GenAI in a Law Assignment' (2025) 6(2) *IEEE Transactions on Technology and Society* 210 ('Borderline Disaster'); Armin Alimardani, 'Generative Artificial Intelligence vs Law Students: An Empirical Study on Criminal Law Exam Performance' (2024) 16(2) *Law, Innovation and Technology* 777; Lisa Larrimore Ouellette et al, *Can AI Hold Office Hours?* (Coase-Sandor Institute for Law & Economics Research Paper No 25-17, 2025) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5166938#>; Daniel Martin Katz et al, 'GPT-4 Passes the Bar Exam' (2024) 382 *Philosophical Transactions of the Royal Society of London A*; Varun Magesh et al, 'Hallucination-Free? Assessing the Reliability of Leading AI Legal Research Tools' (2025) 22(2) *Journal of Empirical Legal Studies* 216; Jonathan H Choi, Amy B Monahan and Daniel Schwarcz, 'Lawyering in the Age of Artificial Intelligence' (2024) 109(1) *Minnesota Law Review* 147; Colin Doyle and Aaron D Tucker, 'If You Give an LLM a Legal Practice Guide' in *Proceedings of the 2025 Symposium on Computer Science and Law* (Association for Computing Machinery, 2025) 194; Stuart Hargreaves, "'Words

legal educators has been one of academic integrity and assessment validity. Where a tool can produce a competent-looking answer in seconds, an unsupervised³ written assessment can no longer assure that the work, or the learning it was meant to evidence, belongs to the student.⁴

Regulators have begun to respond, though not in entirely consistent directions. The Tertiary Education Quality and Standards Agency's ('TEQSA') 2025 guidance on assessment reform (which is not specific to law) accepts that digitally submitted, asynchronous tasks can no longer be assumed to assure that learning has occurred, and urges institutions to reconceive assessment around authentic professional practice that may legitimately incorporate GenAI.⁵ In the specific context of admission to legal practice, the Law Admissions Consultative Committee ('LACC') requirement, that at least half of all assessments in each Priestley 11 area be supervised, reflects a more cautious instinct focused on legal content.⁶ Australian legal educators are thus caught between two incentives: to exclude GenAI from assessments so as to assure legal competence, and to embrace GenAI so as to assess students in preparation for a profession that increasingly incorporates GenAI in its everyday practice.

Much of the existing legal assessment research considers this challenge on a tool-by-tool and task-by-task basis.⁷ Commentary adopting broader treatments organises its analysis around assessment methods, asking which forms of assessment survive GenAI and how each can be adapted, while acknowledging that the competences graduates will need should anchor the inquiry.⁸ This article explicates

Are Flowing out Like Endless Rain into a Paper Cup": ChatGPT & Law School Assessments' (2023) 33(1) *Legal Education Review* 69.

³ In this article, we refer to 'supervised' and 'unsupervised' assessments. For the purpose of this article, 'supervised assessment' refers to assessments where the student is supervised while they complete the exam, through, for example, an invigilated process. 'Unsupervised assessment' refers to assessments where the student is not supervised or observed through the process or part of the process of completing the assessment.

⁴ Thomas Corbin, Phillip Dawson and Danny Liu, 'Talk Is Cheap: Why Structural Assessment Changes Are Needed for a Time of GenAI' (2025) 50(7) *Assessment & Evaluation in Higher Education* 1087, 1087; Amanda Head and Sonya Willis, 'Assessing Law Students in a GenAI World to Create Knowledgeable Future Lawyers' (2024) 31(3) *International Journal of the Legal Profession* 293, 296.

⁵ Tertiary Education Quality and Standards Agency, *Enacting Assessment Reform in a Time of Artificial Intelligence* (Report, September 2025) <<https://www.teqsa.gov.au/sites/default/files/2025-09/enacting-assessment-reform-in-a-time-of-artificial-intelligence.pdf>> ('TEQSA 2025 AI Resource').

⁶ Law Admissions Consultative Committee, *Accreditation Standards for Australian Law Courses (with Proposed Amendments for Public Consultation)* (Report, March 2025) 3–4, 14. Clause 4.7(b)(iv) requires evidence that at least 50% of assessments for each Priestley 11 unit are conducted by invigilation.

⁷ See, eg, Katz et al (n 2) (performance of one model on one examination); Alimardani, 'Generative Artificial Intelligence vs Law Students: An Empirical Study on Criminal Law Exam Performance' (n 2) (one subject area's examination); Magesh et al (n 2) (specific research tools); Hargreaves (n 2) (particular assessment forms).

⁸ See, eg, Pascale Lorber, 'Generative AI, Law Schools and Assessment: Where Next?' (2025) 59(3) *The Law Teacher* 372, 383, 390 (in-person examination, GenAI-resistant design and GenAI-integrated tasks). Cf Head and Willis (n 4) (the

the competences legal education must now secure, against which tools, tasks and assessment designs can be evaluated. Rather than asking whether particular assessments survive the arrival of GenAI, this article engages with what a law graduate must now be able to do, and how a legal education can optimally develop those capacities.

Drawing on Le Deist and Winterton's synthesis of the competence literature, this article analyses legal competence through four interrelated dimensions: cognitive competence, the knowledge and understanding of law; functional competence, the skilled 'know-how' of legal work; social competence, the behaviours, values and professional identity of legal practice; and meta-competence, the capacity to learn, to reflect and to manage uncertainty.⁹ The arrival of GenAI redistributes the weight among these dimensions. It reduces the value of recalling legal knowledge, which the Priestley 11 emphasise, while raising the value of the functional, social and meta-competences that the binding regulatory frameworks under-specify. The profession itself has begun to articulate these capabilities, most prominently in the NSW Law Society's Solicitor Capability Framework ('NSW Solicitor Capability Framework'),¹⁰ which is introduced in Part II.

Viewing legal education through a competence framework provides two key benefits. The first benefit is regulatory. Law is among the most heavily regulated fields of tertiary education, and the obligations imposed by the Priestley 11, the Higher Education Standards Framework ('HESF'), the Australian Qualifications Framework ('AQF') and the Threshold Learning Outcomes ('TLOs') can appear fragmented. However, viewed through the competence framework, they coalesce, and an educator who successfully instils the four competences in their students will address the full breadth of capability that the regulatory and recommended frameworks demand. In the competence framework, the Priestley 11 remain necessary but increasingly insufficient, because they are almost silent on the social and meta-competences that GenAI renders most important. The second benefit is diagnostic. The competence framework locates GenAI's threat to legal education as more significantly developmental than evidentiary. GenAI severs the long-assumed inference that a competent-looking output reflects a competent student, but it also removes the effortful conditions under which competence forms, and

knowledge law graduates require); Colleen E Medill, 'Integrating Artificial Intelligence Tools into the Formation of Professional Identity' (2024) 20(3) *University of St Thomas Law Journal* 702 (professional identity formation); Felicity Bell and Justine Rogers, 'Becoming, Doing, Being: GenAI and the Promise of Professional Identity in Law' (2025) 7(3) *Law, Technology and Humans* 62 (professional identity and the formation of expertise). Each approaches the challenge through one dimension of what a law graduate requires; this article integrates these inquiries within a single framework.

⁹ Françoise Delamare Le Deist and Jonathan Winterton, 'What Is Competence?' (2005) 8(1) *Human Resource Development International* 27.

¹⁰ The Law Society of New South Wales, *Solicitor Capability Framework* (Report, 29 August 2025) <<https://www.lawsociety.com.au/Law-Society-of-New-South-Wales-Solicitor-Capability-Framework>>.

its temptation is strongest for those students least equipped to thrive without effortful learning.

Assessment implications necessarily follow from this analysis. Supervised assessment, through examinations, viva voce assessments and in-class tasks, can still assure cognitive and functional competence, and therefore can carry the principal assessment load. However, an unsupervised assessment retains a distinct and necessary role, for the narrow but critical purpose of developing and assessing legal research skills and the competent use of GenAI, with the focus on the student's process rather than their product.

The article proceeds in three substantive Parts. Part II develops the four-dimensional competence framework and grounds each dimension in legal education and practice, introducing the NSW Solicitor Capability Framework as an example of the legal profession's articulation of the non-technical capabilities of lawyering. Part III maps the regulatory frameworks governing Australian legal education against the four competence dimensions, asking which competence dimensions each framework demands and how GenAI affects the ability to meet them. Part IV examines how GenAI disrupts both the development and the assessment of competence and draws out some implications for assessment design.

II LEGAL COMPETENCE FRAMEWORK

This article employs Le Deist and Winterton's competence framework¹¹ as an analytical lens to map the requirements of legal education in a GenAI context. Le Deist and Winterton synthesise the competence literature into four interrelated dimensions: cognitive competence, functional competence, social competence, and meta-competence. Together these describe what a law student must begin to develop through their legal education. As a domain-general framework, it provides a structure external to the legal regulatory instruments outlined in this article, allowing each to be mapped against common dimensions rather than against one another. Le Deist and Winterton's competence framework is augmented here with legal education scholarship and the profession's own conception of its members' requirements exemplified by the NSW Solicitor Capability Framework, thereby grounding each dimension in the context of legal practice.¹² In this article we call this augmented framework the 'Legal Competence Framework'.

The NSW Solicitor Capability Framework 'describes human or non-technical capabilities that research shows are important for all solicitors during their career' designed to 'complement the technical skills, knowledge and competencies that are relevant to specific roles or areas of practice.'¹³ While this Framework is a NSW Law Society initiative, the capabilities it identifies reflect professional demands

¹¹ Le Deist and Winterton (n 9).

¹² The Law Society of New South Wales (n 10).

¹³ Ibid 4.

common across Australian legal practice ascertained through research and focus groups.¹⁴ The NSW Solicitor Capability Framework outlines seven ‘primary priority capabilities’ (Critical Thinking and Decision-Making, Solicitor-Client Relationships, Professionalism, Problem Solving, Communication and Influence, Integrity and Ethics, and Adaptive Mindset and Resilience) which it discusses in detail and seven ‘secondary priority capabilities’ (Practice Management, Risk Management, Collaboration, Empathy, Wellbeing, Cultural Awareness and Inclusion and Environmental and Social Responsibility). Solicitors are expected to demonstrate each primary skill at a level that is ‘developing’, ‘proficient’ or ‘expert’ to demonstrate excellence in legal practice.¹⁵

A Cognitive Competence

According to Le Deist and Winterton’s typology, cognitive competence encompasses knowledge and understanding.¹⁶ Within cognitive competence, it is necessary to distinguish between knowledge based on the memorisation and recall of facts, ‘know-that’, and knowledge that is underpinned by understanding, ‘know-why’.¹⁷ Memorisation and recall involve surface-level learning that does not require engagement with meaning. In contrast, understanding is a form of deeper learning in which the learner intends to understand, relates new information to existing knowledge, and seeks underlying structure.¹⁸

Students often arrive at law school with the expectation that law is a fixed set of clearly defined rules, the application of which to a legal problem yields one correct answer.¹⁹ At the foundational level, cognitive competence requires knowledge of rules, principles, elements, defences, and remedies. This is the black letter content or the ‘know-that’ of law. It serves as a starting point for legal analysis but is insufficient for resolving complex legal issues.

¹⁴ Ibid. The United Kingdom has a Statement of Solicitor Competence which included similar requirements such as Critical Thinking (A5), Working with Other People (C1–C3) and Self-Management (D): ‘Statement of Solicitor Competence’, *Solicitors Regulation Authority* (Web Page, 9 August 2022) <<https://www.sra.org.uk/solicitors/resources/continuing-competence/competence-statement/>>.

¹⁵ The Law Society of New South Wales (n 10) 6.

¹⁶ Le Deist and Winterton (n 9) 35, 39.

¹⁷ Ibid 35; David R Krathwohl, ‘A Revision of Bloom’s Taxonomy: An Overview’ (2002) 41(4) *Theory Into Practice* 212, 214.

¹⁸ John Burville Biggs and Catherine Tang, *Teaching for Quality Learning at University: What the Student Does* (McGraw-Hill/Society for Research into Higher Education & Open University Press, 4th ed, 2011) 16, 22, 26–7.

¹⁹ Fiona Donson and Catherine O’Sullivan, ‘Building Block or Stumbling Block: Teaching Actus Reus and Mens Rea in Criminal Law’ in Kris Gledhill and Ben Livings (eds) *The Teaching of Criminal Law: The Pedagogical Imperatives* (Routledge, 2016) 21, 24–5; Alex Steel, ‘Succeed, Question, Repeat: Threshold Concepts and Variation Theory in Understanding How Law Students Build Competency’ (2019) 53(3) *The Law Teacher* 231, 237.

Developing cognitive competence in law requires students to move beyond the ‘know-that’ of law to accepting that legal doctrine is more ‘a synthesis of various rules, principles, norms, interpretive guidelines and values’ that ‘explains, makes coherent or justifies a segment of the law as part of a larger system of law’.²⁰ This understanding requires engagement with the sources of law, the context in which laws are applied and interpreted, and the historical and political environments in which the law developed, the ‘know-why’.

B *Functional Competence*

In Le Deist and Winterton’s typology, functional competence represents the ‘operational’ dimension, encompassing the skills or ‘know-how’ required for a specific occupation. It describes those things that a person working in a given occupational area ‘should be able to do... [and] able to demonstrate’.²¹ In legal education, students begin developing functional competence through critical thinking, legal reasoning, legal research, and communication, which they will continue to refine throughout their professional careers.

Critical thinking involves the ability to examine and assess information, assumptions, and arguments to present well-reasoned insights. The NSW Solicitor Capability Framework identifies ‘Critical Thinking and Decision-Making’ as a primary priority capability, encompassing analytical thinking, reasoning, objectivity, and decision-making.²² It requires applying ‘logic and reasoning to make decisions’, being ‘objective, methodical and systematic in evaluating options’, and ‘focus[ing] on the essential elements when approaching a problem’.²³ In legal education, critical thinking provides the foundation upon which more discipline-specific functional skills are built.²⁴

Legal reasoning is the specific application of critical thinking to legal problems. It is commonly taught through structured frameworks such as IRAC, MIRAT, or CREAC, which scaffold students’ ability to apply legal rules to factual scenarios.²⁵ However, functional competence in legal reasoning extends beyond the mechanical application of formulae. It can require engagement in deductive or inductive logic, or reasoning by analogy.²⁶ It may require a lawyer to begin with the client’s goal, and reason backward to the justificatory strategies.²⁷

²⁰ Terry Hutchinson and Nigel Duncan, ‘Defining and Describing What We Do: Doctrinal Legal Research’ (2012) 17(1) *Deakin Law Review* 83, 84.

²¹ Le Deist and Winterton (n 9) 35.

²² The Law Society of New South Wales (n 10) 8.

²³ *Ibid.*

²⁴ Kate Galloway et al, ‘Working the Nexus: Teaching Students to Think, Read and Problem-Solve Like a Lawyer’ (2016) 26(1) *Legal Education Review* 95, 106.

²⁵ Nick James, ‘Logical, Critical and Creative: Teaching “Thinking Skills” to Law Students’ (2012) 12(1) *Queensland University of Technology Law and Justice Journal* 66, 75–6.

²⁶ *Ibid* 76–7.

²⁷ Kurt M Saunders and Linda Levine, ‘Learning to Think Like a Lawyer’ (1994) 29(1) *University of San Francisco Law Review* 121, 183.

The NSW Solicitor Capability Framework captures this broader conception through its ‘Problem Solving’ capability, which requires using ‘information and insights to define and analyse problems, generate optimal solutions and make recommendations’.²⁸ At its foundation, this involves analysing ‘interrelationships, issues and potential consequences to generate possible solutions’; at higher levels of proficiency, it requires ‘making linkages between seemingly unrelated but important issues’ and taking ‘new, novel and objective approaches to known problems’.²⁹

Professional legal research comprises the practical skills necessary to locate, validate, and interpret primary sources of law. It is a skill that enables legal reasoning, providing the doctrinal material upon which the legal analysis operates. Competence in research skills requires not only the technical capacity to search databases, but the judgment to assess authority, currency, and relevance, skills that connect functional ‘know-how’ to deeper cognitive understanding of legal doctrine.³⁰

Communication is where functional competence becomes visible and demonstrable. It encompasses both written forms (legal writing, drafting, advice) and oral forms (advocacy, negotiation, client interaction). The NSW Solicitor Capability Framework identifies ‘Communication and Influence’ as a primary priority capability, requiring practitioners to prepare and present advice ‘using a range of communication methods’ and to negotiate effectively ‘having regard to client needs, context, and professional obligations’.³¹ The technical dimensions of this capability include preparing ‘meaningful and purposeful communication’ and developing proficiency in negotiation strategies.³²

Cognitive and functional competence are also inextricably linked. Effective problem-solving abilities, often perceived as transferable functional skills, are dependent on domain-specific expertise.³³ The ability to spot issues in a legal fact pattern relies on the ability to look through surface features to the underlying legal principles. Functional competence, therefore, involves the practical application of cognitive competences, translating abstract theory into skilled know-how.

However, it is important to note that the functional dimension captures the technical execution of these skills rather than the relational and ethical dimensions that accompany them in practice. A law graduate may be technically proficient in drafting or negotiation while still developing the interpersonal and ethical capacities that effective professional practice requires. It is to these behavioural and attitudinal dimensions that social competence attends.

²⁸ The Law Society of New South Wales (n 10) 11.

²⁹ Ibid.

³⁰ Galloway et al (n 24) 99–101.

³¹ The Law Society of New South Wales (n 10) 12.

³² Ibid.

³³ Galloway et al (n 24) 101.

C Social Competence

Social competence encompasses the behavioural and attitudinal competences necessary for professional interaction. Drawing on the holistic competence framework developed by Cheetham and Chivers, which characterises behavioural competences as the ‘know-how to behave’, Le Deist and Winterton incorporate these within their broader category of social competence, capturing the behaviours and attitudes essential for occupational effectiveness.³⁴ Social competence focuses on the development of a professional identity and the internalisation of the profession’s values. This dimension corresponds to what the Carnegie Foundation studies term the ‘third apprenticeship’ of professional formation, which integrates the intellectual and practical apprenticeships by introducing students to the ‘purposes and attitudes that are guided by the values for which the professional community is responsible’.³⁵ In mapping professional formation onto the competence typology, social competence thus serves as the vehicle through which students develop the values, behaviours and professional identity that are essential to legal practice. This includes the development of ethical competences, defined as the possession of appropriate personal and professional values and the ability to make sound judgments based upon them.³⁶

Functional competence and social competence are also interrelated. The skills of persuasion and influence draw on behavioural and interpersonal capacities that extend beyond technical proficiency. A lawyer cannot effectively interview a client (functional) without foundational social competence to build trust, demonstrate empathy, and maintain integrity. The NSW Solicitor Capability Framework highlights this interdependence by identifying ‘Solicitor-Client Relationships’ and ‘Integrity and Ethics’ as primary priority capabilities,³⁷ requiring lawyers to be ‘authentic, open-minded and easy to approach’, ‘honest, transparent and clear when communicating’, and to respect ‘the judgement of others and diverse cultural and societal perspectives’.³⁸

Central to social competence is the internalisation of a ‘deep responsibility’ to the client,³⁹ as well as to the public good.⁴⁰ To develop this competence, students move beyond mere compliance with rules to develop a professional identity over a career through habits of feedback, dialogue, and reflection.⁴¹ Thus, social competence ensures

³⁴ Le Deist and Winterton (n 9) 35, 39.

³⁵ Neil Hamilton, ‘Fostering Professional Formation (Professionalism): Lessons from the Carnegie Foundation’s Five Studies on Educating Professionals Changes in Legal Education and Legal Ethics’ (2011) 45(4) *Creighton Law Review* 763, 772, quoting William M Sullivan et al, *Educating Lawyers: Preparation for the Profession of Law* (Carnegie Foundation for the Advancement of Teaching, 2007) 28.

³⁶ Le Deist and Winterton (n 9) 35.

³⁷ The Law Society of New South Wales (n 10) 9, 13.

³⁸ Ibid 9.

³⁹ Hamilton (n 35) 775.

⁴⁰ Ibid 777.

⁴¹ Ibid 786.

that graduates enter the profession equipped to exercise the technical skills of lawyering with civility and integrity, capacities they will deepen through practice.⁴²

D *Meta-Competence*

Meta-competence is defined by Le Deist and Winterton as a conceptual dimension of competence that encompasses the capacity for learning and reflection as well as the ability to cope with uncertainty.⁴³ It is primarily concerned with facilitating the ‘acquisition of the other substantive competences’, distinguishing it from the functional skills or cognitive knowledge required for specific professional tasks.⁴⁴

Meta-competence draws on metacognitive processes as its core mechanism. Metacognition involves awareness of one’s own cognitive processes and the ability to regulate learning through planning, monitoring, and evaluation.⁴⁵ It enables individuals to identify what they know, what they do not know, and how to adapt previous learning to new situations.⁴⁶ However, meta-competence extends beyond metacognition to encompass dispositional capacities, including the ability to tolerate uncertainty rather than seeking premature resolution.

For law students, meta-competence is critical in developing the capacity to evaluate the reliability of legal sources, recognise when law is uncertain or evolving,⁴⁷ know when to seek guidance, and adapt to new legal developments.⁴⁸ While law schools traditionally focus on analytical skills, integrating meta-competence prepares students to tolerate and cope with uncertainty, a key component of professional expertise.⁴⁹

Meta-competence thus occupies a distinct position within the Legal Competence Framework. While cognitive, functional, and social competences describe what professionals know, can do, and how they conduct themselves, meta-competence facilitates the acquisition and deployment of these other dimensions.⁵⁰ It is the capacity that enables students to persist through the difficulty of acquiring domain knowledge, to recognise the limits of their own understanding, and to continue developing throughout a career. Importantly, meta-competence is not a generic skill that students possess before legal education and simply apply to legal content.⁵¹ Like the other competences, it must itself be developed through practice, creating an

⁴² Ibid 777, 779.

⁴³ Le Deist and Winterton (n 9) 35.

⁴⁴ Ibid 39.

⁴⁵ Anthony S Niedwiecki, ‘Lawyers and Learning: A Metacognitive Approach to Legal Education’ (2006) 13(1) *Widener Law Review* 33, 44–5.

⁴⁶ Ibid; James P Byrnes and Kevin N Dunbar, ‘The Nature and Development of Critical-Analytic Thinking’ (2014) 26(4) *Educational Psychology Review* 477, 480–1.

⁴⁷ Steel (n 19) 241.

⁴⁸ Niedwiecki (n 45) 41–2.

⁴⁹ Patti Alleva and Jennifer A Gundlach, ‘Learning Intentionally and the Metacognitive Task’ (2016) 65(4) *Journal of Legal Education* 710, 720, 728.

⁵⁰ Le Deist and Winterton (n 9) 39.

⁵¹ Niedwiecki (n 45) 42.

interdependence: effective learning requires metacognitive regulation, yet that regulatory capacity is itself learned through the effortful process of acquiring knowledge and skill.

Having outlined the four dimensions of the Legal Competence Framework, the analysis turns to the regulatory frameworks governing Australian legal education asking which of the four dimensions each framework demands and how GenAI affects legal education's ability to meet them.

III THE LEGAL LEARNING AND KNOWLEDGE FRAMEWORKS: PRIESTLEY 11, AND SO MUCH MORE

Law is one of the most regulated areas of tertiary education.⁵² The need to comply with multiple legislated learning frameworks, including the Priestley 11, TEQSA and AQF, increases the complexity legal academia faces in pivoting to accommodate the disruption caused by GenAI. Simultaneously, however, the legislative accreditation requirements for law protect the relevance of law degrees for students reinforcing the value of the educational regulatory framework. Regardless of GenAI, all aspiring lawyers must still obtain their tertiary legal qualification in order to practice. As the following analysis demonstrates, the complex regulatory requirements coalesce around the Legal Competence Framework set out above such that legal educators who instil all four competences in the Framework will comply with the full breadth of regulatory and recommended educational requirements.

GenAI disrupts traditional methods of both achieving and assessing legal competence. For each regulatory framework governing legal education discussed below, the analysis in this Part details which competence dimensions each framework demands, which of those demands GenAI disrupts, and the effect this disruption has on legal assessments. Where students have unfettered access to GenAI, a competent-looking output no longer evidences a competent student but, as this Part details, within each framework, supervised assessments are unable to address all four competence dimensions required by the Legal Competence Framework. Part IV then examines the implications GenAI disruption has on the development and assessment of student competence.

A *Priestley 11 – Prescribed Academic Areas of Knowledge*

The Priestley 11 establish the best-known regulatory requirements for admission to legal practice.

⁵² Paul Maharg, 'Shared Space and the Regulation of Legal Education' in Ron Levy et al (eds), *New Directions for Law in Australia: Essays in Contemporary Law Reform* (Australian National University Press, 2017) 539, 539, 540–3.

1 *The Priestley 11 Regulatory Environment*

Admission requirements are negotiated nationally by the LACC which aims to reach national consensus on admission related matters and includes representatives from all Australian states and territories.⁵³

In NSW, with similar requirements in other Australian jurisdictions, the *Legal Profession Uniform Law 2014* (NSW) requires, for admission to practice, that a person has met the ‘specified academic qualifications prerequisite’ (s 17(1)(a)) in the Admissions Rules, completed practical legal training (s 17(1)(b)), and is a fit and proper person for admission (s 17(1)(c)).⁵⁴ This article bases its analysis of the Priestley 11 on the current uniform legislative iteration applicable in NSW, Victoria and WA which applies to approximately 75% of the current legal profession.⁵⁵

Meeting the specified academic qualification requires completion of an ‘academic course in Australia’ that is the equivalent of at least 3 years’ full-time study of law, ‘is accredited’ and will allow the student to ‘acquire and demonstrate appropriate understanding and competence in each element of the academic areas of knowledge set out in Schedule 1.’⁵⁶

Schedule 1 of the *Legal Profession Uniform Admission Rules 2015* (NSW) contains the ‘Academic areas of knowledge’ which are, essentially, the 1992 Priestley 11 knowledge areas.⁵⁷ The Priestley 11, as currently legislated, are: Criminal Law and Procedure; Torts; Contracts; Property; Equity; Company Law; Administrative Law; Federal and State Constitutional Law; Civil Dispute Resolution; Evidence; and Ethics and Professional Responsibility. Changes to the Priestley 11 since 1992 have been relatively minor.⁵⁸

The Priestley 11 are not overly prescriptive. Each topic contains a specific list of topics followed by ‘or Topics of such breadth and depth as to satisfy the following guidelines.’⁵⁹ These alternative ‘guidelines’, which follow each specific list, vary considerably in specificity making slavish adherence to each specific item in any list difficult to justify as

⁵³ The LACC update to Prescribed Areas of Knowledge and Model Admissions Rules on 31 October 2025 did not address GenAI.

⁵⁴ The *Legal Profession Uniform Law* is set out in the *Legal Profession Uniform Law Application Act 2014* (Vic) sch 1. It applies in Victoria through s 4 of that Act, in NSW through the *Legal Profession Uniform Law Application Act 2014* (NSW) s 4, and in Western Australia, through the *Legal Profession Uniform Law Application Act 2022* (WA) s 6. Other states and territories maintain broadly equivalent obligations (see, eg, *Legal Profession Act 2007* (Qld) s 30).

⁵⁵ Legal Services Council, *Overview of the Uniform Law* (Information Sheet for Legal Practitioners, July 2022) <<https://legalservicescouncil.org.au/documents/information-res/Information-sheet-for-legal-practitioners-Overview-of-the-Uniform-Law-July2022.pdf>>.

⁵⁶ *Legal Profession Uniform Admission Rules 2015* (NSW) r 5.

⁵⁷ Again with parallel provisions in Victoria and Western Australia and similar rules in other states and territories.

⁵⁸ The most significant changes were those enacted through the *Legal Profession Uniform Admission Amendment (Academic Areas of Knowledge) Rule 2017* (NSW) sch 1 pt 2, through which cl 11 (Civil Procedure) was revised and renamed (Civil Dispute Resolution) and cl 12 (Evidence) was significantly revised.

⁵⁹ *Legal Profession Uniform Admission Rules 2015* (NSW) sch 1 pt 2.

a legislative requirement. For example, Administrative Law merely states: 'The topics should not only embrace traditional common law remedies concerning judicial review of administrative action, but should also cover the range of Commonwealth and State statutory regimes.'⁶⁰ Conversely, the layout of the Equity alternative guideline is considerably more detailed and prescriptive.⁶¹

There have been numerous, meritorious arguments made by legal education experts over many years, in favour of Priestley 11 reform, including subject matter arguments, which support this article's contention that the Priestley 11 are an incomplete representation of legal competence even without GenAI's interference. Such scholarship includes proposing the additions of statutory interpretation, public international law, private international law, environmental law, consumer law, tax law, human rights law, legal theory, legal history, family law and Indigenous law as well as arguments in favour of abandoning the Priestley 11 and, possibly, compulsory law subjects entirely.⁶² The merits of these arguments are largely unaffected by GenAI but their existence demonstrates the breadth of problems caused by overreliance on the Priestley 11 as the touchstone of legal learning. The widespread academic dissatisfaction with the structure and content of the Priestley 11 compounds its failures to address the legal competence requirements of a GenAI environment mapped below.

2 Mapping the Priestley 11 to Competence Requirements in a GenAI world

The Priestley 11's topic-based approach focuses almost entirely on cognitive competence (students demonstrating they know and understand the Priestley 11 areas of law) and, to a lesser extent,

⁶⁰ Ibid sch 1 pt 2 cl 9.

⁶¹ The October 2025 update of the Prescribed Knowledge areas by the Law Admissions Consultative Committee somewhat improves the Equity layout: Law Admissions Consultative Committee, *Prescribed Academic Areas of Knowledge* (Guideline, 31 October 2025) <https://legalservicescouncil.org.au/documents/Prescribed_Academic_Areas_of_Knowledge_Updated_31_October_2025.pdf>.

⁶² Kate Galloway, Melissa Castan and Alex Steel, 'Hacking the Priestleys' in Helen Gibbon et al (eds), *Critical Legal Education as a Subversive Activity* (Routledge, 2022); Kate Galloway and Nicole Graham, 'Learning Ecological Law: Innovating Legal Curriculum and Pedagogy' in Peter Burdon and James Martel (eds), *The Routledge Handbook of Law and the Anthropocene* (Routledge, 2023) 330, 334; Irene Baghoomians, Emily Crawford and Jacqueline Mowbray, 'The Teaching of Public International Law in Australian Law Schools: 2021 and Beyond' (2022) 43(1) *Adelaide Law Review* 7, 14–6; Brian Preston, 'Mainstreaming Climate Change in Legal Education' (2023) 32(4) *Griffith Law Review* 431, 434–6; Irene Watson, 'What Is the Mainstream? The Laws of First Nations Peoples' in Ron Levy et al (eds), *New Directions for Law in Australia: Essays in Contemporary Law Reform* (Australian National University Press, 2017) 213, 217–20; Craig Collins, 'The End of Ramism: And the Shape of Things to Come' in Ron Levy et al (eds), *New Directions for Law in Australia: Essays in Contemporary Law Reform* (Australian National University Press, 2017) 529, 536–7; Margaret Thornton, 'Dreaming of Diversity in Legal Education' in Ron Levy et al (eds), *New Directions for Law in Australia: Essays in Contemporary Law Reform* (Australian National University Press, 2017) 549, 549, 552.

functional competence (students demonstrating they can apply their knowledge to scenarios likely to arise in legal practice). There is no reference or consideration of social or meta-competence aspects of lawyering in the Priestley 11 except through the content of Ethics and Professional Responsibility which touches on behavioural aspects of social competence and the meta-competence need for continuous learning as substantive legal requirements of being a legal professional.

The knowledge-based contents of the Priestley 11 can be assessed through handwritten, timed supervised examinations which are not susceptible to GenAI misuse. However, the prevalence of undergraduate level Priestley 11 material online and available to train GenAI makes it challenging to test student understanding of Priestley 11 content by any mode of assessment where students are able to employ GenAI to undertake all or most of the task for them. This provides a strong incentive for law academics to set supervised assessments such as handwritten supervised examinations to test Priestley 11 cognitive competence. Such assessments can also examine aspects of functional competence through hypothetical-based examinations which require critical thinking and problem solving but do not lend themselves to assessing social or meta-competence. Supervised assessments such as handwritten examinations are consistent with the LACC's requirement for universities to increase invigilated (supervised) assessments but do not address TEQSA and the profession's desire for GenAI capable graduates.⁶³

B TEQSA – HESF Framework

The Tertiary Education Quality and Standards Agency requires universities to offer TEQSA compliant degree programs including for all law degrees.

1 The TEQSA Regulatory Environment

The *Higher Education Standards Framework (Threshold Standards) 2021* was created under s 58(1) of the *Tertiary Education Quality and Standards Agency Act 2011* (Cth). The HESF Domains are 1. student participation and attainment, 2. learning environment, 3. teaching, 4. research and research training, 5. institutional quality assurance, 6. governance and accountability and 7. representation, information and information management.⁶⁴

HESF Domain 1 contains the relevant regulatory requirements for student participation and attainment including assessment and is, therefore, the relevant HESF Domain for this article. HESF Domain 1.4 requires institutions to set out expected learning outcomes and assessment consistent with the level and field of education.⁶⁵ The learning outcomes must 'encompass discipline-related and generic

⁶³ See below Part III.

⁶⁴ Tertiary Education Quality and Standards Agency, *Higher Education Standards Framework (Threshold Standards) 2021* (at 14 July 2026) ('HESF').

⁶⁵ Ibid Domain 1.4(1).

outcomes’ and include ‘knowledge and skills required for employment and further study related to the course of study, including those required to be eligible to seek registration to practise where applicable’ together with ‘skills in independent and critical thinking suitable for life-long learning’.⁶⁶

2 *Mapping the HESF Framework to Competence Requirements in a GenAI World*

The HESF framework, like the Priestley 11, focuses predominantly on cognitive and functional competence but the focus on employability for HESF components implies requirements at least of social competence and, preferably, of meta-competence. Significantly, HESF Domain 1.4(3) states: ‘Methods of assessment are consistent with the learning outcomes being assessed, are capable of confirming that all specified learning outcomes are achieved and that grades awarded reflect the level of student attainment.’ This obligation is strengthened by the assessment linked ‘demonstration’ requirement in HESF Domain 1.4(4) that ‘[o]n completion of a course of study, students have demonstrated the learning outcomes specified for the course of study’.

As for the Priestley 11 requirements discussed above, the cognitive and functional learning requirements for law can be assessed using traditional assessment methods not open to GenAI use, such as supervised examinations. However, such assessments do not satisfy the requirement to assess the social and meta-competence dimensions of the knowledge and skills required for employment. A supervised examination, therefore, cannot demonstrate all the knowledge and skills required for employment. Conversely, traditional unsupervised assessments, such as research essays, risk GenAI producing a close facsimile of an excellent answer, with minimal student input. Unsupervised assessments susceptible to GenAI misuse, therefore, do not test independent and critical thinking skills suitable for life-long learning, or even the topic-based Priestley 11 requirements discussed above which fall within HESF 1.4 ‘knowledge’. This leaves academics needing to create assessments which allow use of GenAI, to train students for workplaces enhanced by GenAI, while testing critical thinking and Priestley 11 content in a way that GenAI misuse cannot subvert. To add to the challenge facing legal academics, resourcing constraints mean law assessments often need to be marked in 20–30 minutes, frequently by casually employed markers.⁶⁷ Within that timeframe, even an expert marker is unlikely to identify problematic examples of GenAI misuse, such as citing hallucinated cases, and does not have time to check all sources cited.⁶⁸ These resource limitations

⁶⁶ Ibid Domain 1.4(2).

⁶⁷ Peter Woelert, Gwilym Croucher and Sam Hoang, ‘The Rise of a “Casualised” Workforce: A Conceptual Account of the Institutional Forces Legitimising Contingent Academic Employment in Australia’ (2026) 91(1) *Higher Education* 23.

⁶⁸ Peter Scarfe et al, ‘A Real-World Test of Artificial Intelligence Infiltration of a University Examinations System: A “Turing Test” Case Study’ (2024) 19(6) *PLOS ONE* e0305354.

dramatically increase the risks associated with using assessments open to GenAI misuse such as traditional-research essays.

TEQSA began to grapple with the impact of GenAI on higher education resulting in the publication, in September 2025, of the ‘Enacting assessment reform in a time of artificial intelligence’ resource (‘TEQSA 2025 AI Resource’).⁶⁹ This resource ‘offers guidance on implementing assessment reform strategies’ while also acknowledging the ‘complexity’ of such reform.⁷⁰ The TEQSA 2025 AI Resource acknowledges that ‘[t]he ability of any task submitted asynchronously and/or undertaken digitally to assure that learning has occurred now needs to be rigorously scrutinised, given the capabilities of gen AI tools.’⁷¹ It also notes that ‘[m]any students are becoming increasingly sophisticated in gen AI tool use, while workplaces integrate these technologies across disciplines. This situation creates a critical imperative for institutions to reconceptualise assessment, reflecting authentic professional practices that may legitimately incorporate gen AI where appropriate.’⁷²

The ideal post-GenAI assessment would enable students to use GenAI as they might in a workplace while still demonstrating knowledge and skills ‘including those required to be eligible to seek registration to practise’.⁷³ Such an assessment would engage with all four dimensions of the Legal Competence Framework because the law student would need to know enough law (cognitive competence) and sufficiently understand the expectations of the profession, and their identity within it (social competence), to critically assess the output of the GenAI (functional competence), through the lens of awareness of their own knowledge and potential shortcomings (meta-competence). This exemplifies why the Legal Competence Framework is so useful for evaluating assessments. However, devising such an assessment is far easier said than done particularly in circumstances where numerous lawyers in practice have been caught using GenAI in ways which breach their professional obligations.⁷⁴ It is likely many more have used GenAI in inappropriate ways and not been caught. The cases exposed to date mostly involve errors which were obvious or readily detectable, and subtler errors are more likely to pass unnoticed.⁷⁵

⁶⁹ TEQSA 2025 AI Resource (n 5).

⁷⁰ Ibid 1, 3.

⁷¹ Ibid 12.

⁷² Ibid 2.

⁷³ *HESF* (n 64) Domain 1.4(2).

⁷⁴ Examples of lawyer misuse are discussed in Michael Legg, Vicki McNamara and Armin Alimardani, ‘The Promise and the Peril of the Use of Generative Artificial Intelligence in Litigation’ (2025) 48(4) *UNSW Law Journal* 1196. See also databases such as Damien Charlotin, ‘AI Hallucination Cases’ (Web Page) < <https://www.damiencharlotin.com/hallucinations/> > (a database that records thousands of cases worldwide where GenAI has been misused, many involving lawyer misuse).

⁷⁵ Andrew Bell, ‘Change at the Bar and the Great Challenge of Gen AI’ (Speech, Australian Bar Association, 29 August 2025).

C *AQF Framework*

Any degree offered by an Australian university must also comply with the obligations set out for the relevant level of qualification pursuant to the AQF, Second Edition.⁷⁶

1 *The AQF Regulatory Framework*

Degrees enabling graduates to practise law range from Level 7 (Bachelor degree) for LLBs and Level 8 (Bachelor Honours degree) for LLB (Hons) to Level 9 (Masters degree extended) for JD (Juris Doctor). The AQF sets out requirements for knowledge, skills and the application of knowledge and skills:⁷⁷

- **Knowledge requirements** include ‘a broad and coherent’ body of discipline knowledge (Level 7), ‘coherent and advanced’ discipline knowledge and knowledge of research principles and methods (Level 8) or body of knowledge including extended understanding of recent developments in a discipline and its professional practice (Level 9).
- **Skills** include cognitive skills to review, analyse, consolidate and synthesise knowledge to identify and provide solutions to complex problems with intellectual independence, exercise critical thinking and judgement in developing new understanding, technical skills to design and use research and ‘communication skills to present a clear and coherent exposition of knowledge and ideas to a variety of audiences’ (Level 7). The Level 8 requirements are similar but with ability to communicate research and more complex ideas. The Level 9 requirements add mastery of theoretical knowledge and ‘technical and communication skills to design, evaluate, implement, analyse and theorise about developments that contribute to professional practice’.
- **Application of knowledge and skills** includes demonstrating application ‘with initiative and judgement in planning, problem solving and decision making in professional practice’, in ‘diverse contexts’, ‘with responsibility and accountability for own learning’ and ‘collaboration’ for Level 7 adding planning and execution of research for Level 8 and adding ‘creativity and initiative’ and ‘high level personal autonomy’ for Level 9.

2 *Mapping the AQF Framework to Competence in a GenAI World*

The AQF ‘knowledge requirements’ predominantly concern cognitive competence while the ‘skills’ focus more on functional and social competence. ‘Application of knowledge and skills’ covers

⁷⁶ Australian Qualifications Framework Council, *Australian Qualifications Framework Second Edition January 2013* (Australian Qualifications Framework Council, 2nd ed, 2013) 16–18, 72.

⁷⁷ *Ibid* 16–17.

functional (problem solving), social (professional practice in diverse contexts) and, importantly, meta-competence, through ‘responsibility and accountability for own learning’, ‘initiative’ and ‘judgement’. As with the Priestley 11 and the HESF framework, many AQF requirements become difficult to assess reliably in unsupervised tasks where a student may offload the work to GenAI, whether illicitly or because the task permits its use. This draws academics back towards supervised examinations which at least enable demonstration of knowledge requirements, critical thinking, analysis, written communication and their application to problem-solving. Supervised examinations, however, provide minimal scope for assessing creativity and personal autonomy and no scope for demonstrating research or collaboration skills.

Law academics must, therefore, also consider assessments beyond the supervised examinations to meet the AQF’s skills and application requirements. The AQF thus points the same way as the frameworks already considered: assessment secures the cognitive and much of the functional dimension, but the creativity, autonomy, research and collaboration the AQF equally demands, which align with social and meta-competence, can only be assessed beyond the supervised examination and, so, require confronting GenAI rather than excluding it.

D The CALD TLOs

In 2010, the Council of Australian Law Deans (‘CALD’) endorsed six TLOs for law set out by Kift, Israel and Field in their *Bachelor of Laws Learning and Teaching Academic Standards Statement* (‘TLO Statement’).⁷⁸

1 The TLO Framework

The TLOs are not legislatively binding but carry significant weight in law schools and legal pedagogical research because they were created with the assistance of ‘judiciary, admitting authorities, legal profession, regulators, academics, students and recent graduates’.⁷⁹ The six TLOs set out ‘what a graduate is expected to know, understand and be able to do as a result of learning’.⁸⁰ The TLOs are ‘knowledge; ethics and professional responsibility; thinking skills; research skills; communication and collaboration; and self-management’.⁸¹

⁷⁸ Sally Kift, Mark Israel and Rachael Field, *Learning and Teaching Academic Standards Project Bachelor of Laws: Learning and Teaching Academic Standards Statement* (Report, December 2010) (‘TLO Statement’).

⁷⁹ Ibid 1.

⁸⁰ Ibid 9.

⁸¹ Ibid 1.

2 *Mapping the TLO Framework to Competence in a GenAI World*

The TLOs meet all four aspects of the Legal Competence Framework with knowledge mapping to cognitive competence, self-management mapping strongly to meta-competence and the remaining four TLOs mapping predominantly to functional and social competence.

In 2010, well before publicly available GenAI, the TLO Statement noted: ‘In a changing and dynamic world, contemporary Australian legal education places an emphasis on the ability of law graduates to think analytically and creatively in approaching and generating solutions to legal issues, and to demonstrate an appreciation of the principles and values of justice and ethical practice.’⁸² Therefore, unlike the topic-based limitations inherent in the Priestley 11, legal education has long required more than mere legal knowledge. This is strengthened by the fact, noted in the TLO Statement, that LLB graduates ‘enter diverse professional and vocational fields’ outside the legal profession including in government, corporations, international organisations, academia and publishing.⁸³ That the TLOs arguably already meet all four requirements of the Legal Competence Framework further supports the validity of the Framework. This reinforces the need for at least some assessments in a TLO compliant law degree to assess legal research and collaboration (as traditional research essays and group work used to) with a new requirement to assess the competent use of GenAI, none of which can be assessed through traditional supervised examinations.

E *Beyond the Regulatory Requirements*

In addition to all the regulatory requirements discussed above, the NSW Solicitor Capability Framework, incorporated into our Legal Competence Framework, provides evidence that the profession requires more. Aspects of the seven primary capabilities of the NSW Solicitor Capability Framework are covered by existing learning requirements discussed above, such as critical thinking and communication skills. However, additional components of ‘Adaptive Mindset and Resilience’ described as ‘optimism, persistence, courage and resilience’ arguably extend beyond the self-management and personal autonomy requirements of the CALD TLOs and the TEQSA HESF framework discussed above. They do, however, fall within the Legal Competence Framework as either social competence or meta-competence. The creation of the NSW Solicitor Capability Framework acknowledges the growing importance of legal skills beyond Priestley 11 knowledge that might positively differentiate the work of junior lawyers from the output of GenAI. However, they are also skills which raise assessment challenges for legal academics.

⁸² Ibid 8.

⁸³ Ibid.

Even the most junior NSW lawyer (a new graduate) would, presumably, be expected to demonstrate ‘developing’ level skills in each of the seven primary capability areas, and these requirements are often substantial. For example, ‘solicitor-client relationships’ at developing level requires: ‘Identifies client needs and expectations, as well as potential outcomes’, ‘Builds trust and instils confidence through mutually respectful, two-way communication’ and ‘Engages effectively to ensure clients understand information and advice provided’.⁸⁴ Therefore, it falls to NSW universities to at least begin the competence journey for law students so that they can meet all seven ‘developing’ level capabilities upon admission to practice.

This analysis of the complex framework regulating tertiary legal education and the profession’s requirements demonstrates how far the Priestley 11 fall short of encompassing what is required to be a competent lawyer. This is significant because, as discussed, the Priestley 11 have received so much scholarly and statutory attention that it is easy for legal academics to consider them a proxy for the essential requirements of legal education when this is an increasingly untenable view.

IV COMPETENCE DEVELOPMENT AND ASSESSMENT

Part III has shown how the Legal Competence Framework streamlines an otherwise fragmented set of regulatory obligations and has demonstrated how the Priestley 11, the HESF, the AQF and the TLOs together require all four competences. The preceding analysis also introduced how GenAI has disrupted the methods by which many of these competences have long been assessed. Having delineated the modern legal education requirements in a post GenAI environment, Part IV turns to examining GenAI’s disruption of both competence development and competence assessment.

A *Assessing Competence*

The Legal Competence Framework organises the competences that, as Part III demonstrated, law students must develop. How they demonstrate that development depends on the form the assessment takes. Some assessments, such as oral examinations, simulations, or observed practice, may allow competence to be demonstrated directly. However, legal education traditionally relies heavily on assessments that require students to produce written output.⁸⁵ Educators have been treating that output as a proxy for the competence they are assessing, inferring, from the output, whether the student has developed the underlying competences that producing the output was assumed to

⁸⁴ The Law Society of New South Wales (n 10) 9.

⁸⁵ Rick Rhodes, ‘Ipsative Assessment: The Legal Journey, Not the Destination’ (2025) 59(3) *The Law Teacher* 399, 401–2.

require.⁸⁶ This inference is sound when the skills required to perform well on the assessment are substantially the same as those that constitute the target competences.⁸⁷

In legal education, common forms of written output have been the research essay and hypothetical problem-solving. Prior to GenAI, a thoughtfully designed research assessment or hypothetical problem question could align well with targeted learning outcomes.⁸⁸ Take a hypothetical problem that targets cognitive and functional competence in a Priestley 11 knowledge area. It is assumed that a student cannot produce competent legal analysis without identifying relevant issues, understanding applicable rules, and demonstrating an ability to apply legal reasoning to facts. The student output evidences the underlying capacities because those capacities are necessary to produce it.⁸⁹ Assessments open to GenAI can break the alignment between outputs and demonstration of competences.

B *The Foundations of Competence Development*

The significance of GenAI's impact on assessing competence can only be understood against an account of how competence develops. That development, as the following discussion outlines, is effortful, integrated across dimensions, and dependent on conditions that technological intervention can disrupt.

What distinguishes experts from novices is the depth and organisation of their domain knowledge. However, this difference is obscured because a written output, such as an essay, often masks the cognitive processes underpinning it.⁹⁰ To understand what distinguishes expert performance, we need to examine those internal structures. Experts possess well-developed 'schemata', or functional packages of knowledge, that allow them to recognise patterns and categorise problems efficiently.⁹¹ In legal thinking, experienced

⁸⁶ Tim Fawns, David Boud and Phillip Dawson, 'Identifying What Our Students Have Learned: A Framework for Practical Assessment Validation' (2026) *Assessment & Evaluation in Higher Education* (advance) 4–5; Samuel Messick, 'The Interplay of Evidence and Consequences in the Validation of Performance Assessments' (1994) 23(2) *Educational Researcher* 13, 14–15.

⁸⁷ Michael Kane, 'Validation Strategies: Delineating and Validating Proposed Interpretations and Uses of Test Scores' in Thomas M Haladyna, Suzanne Lane and Mark R Raymond (eds), *Handbook of Test Development* (Routledge, 2nd ed, 2016) 64, 66–7; Fawns, Boud and Dawson (n 86) 5–6.

⁸⁸ For a discussion on how some assessment types may have drifted into misalignment see Thomas Corbin et al, 'On the Essay in a Time of GenAI' (2025) *Educational Philosophy and Theory* (advance) 1; Linley Martin and Marian Mahat, 'The Assessment of Learning Outcomes in Australia: Finding the Holy Grail' (2017) 3(1) *AERA Open* 1.

⁸⁹ See Fawns, Boud and Dawson (n 86) 2–4 for a discussion on the challenges of achieving assessment validity in higher education generally.

⁹⁰ Chance Meyer and Nicole Noël, 'The Gray Box of Legal Analysis: Disentangling Knowledge and Skill' (2024) 101(3) *University of Detroit Mercy Law Review* 287.

⁹¹ *Ibid* 297.

lawyers look through surface facts to underlying legal principles.⁹² One cannot reason like a lawyer without first acquiring the substantive knowledge that legal reasoning operates upon; indeed, attempting to practise legal analysis without first establishing deep schematic knowledge results in ‘non-practice’, in which cognitive resources are consumed by basic comprehension rather than higher-order analysis.⁹³

The critical thinking and legal reasoning skills described above are effortful, time-consuming, and mentally taxing, requiring both the motivation to undertake them and the domain knowledge to apply them effectively. They demand ‘System 2’ processing, the slow, deliberate cognition that overrides intuitive ‘System 1’ responses.⁹⁴ Without sufficient knowledge of a field, individuals lack the foundation against which to identify issues, evaluate claims or identify flawed reasoning. This explains why students cannot simply be taught general critical thinking and then apply it to law. Moreover, legal reasoning possesses a distinct character that sets it apart from general critical thinking. As Schauer notes, legal reasoning is authority-based, demanding adherence to a rule or precedent even when doing so dictates an outcome different from the ‘best all-things-considered’ decision.⁹⁵ Galloway et al describe this integration of reading law, critical thinking, and problem-solving as creating a ‘nexus’ where these skills operate as a seamless whole, reinforcing the interdependence of cognitive and functional competence.⁹⁶

The effort involved in developing competence is not incidental to learning but constitutive of it. Students frequently arrive at law school as ‘dualists’, expecting determinate, right-or-wrong answers. The transition to ‘multiplistic’ or ‘relativistic’ thinking, where diverse views are acknowledged and context matters, is a complex developmental arc.⁹⁷ Students will need to learn that law can be argued, distinguished, and developed, but also that legal reasoning sometimes requires adherence to rules or precedent even when it appears to produce a suboptimal result in the immediate case.⁹⁸ Steel frames this struggle as ‘liminality’, an unstable state of uncertainty that arises when a student attempts to traverse a ‘threshold concept’.⁹⁹ Moreover, liminality is not a temporary hurdle to be cleared once, but a recurring state that professionals must learn to inhabit as they encounter new areas of law.¹⁰⁰ Struggling with difficult material, persisting through uncertainty, and working through problems are the processes through

⁹² Natt Gantt, ‘Deconstructing Thinking Like a Lawyer: Analyzing the Cognitive Components of the Analytical Mind’ (2007) 29(2) *Campbell Law Review* 413, 447–8.

⁹³ Meyer and Noël (n 90) 294.

⁹⁴ Daniel Kahneman, *Thinking, Fast and Slow* (Farrar, Straus and Giroux, 2011); Byrnes and Dunbar (n 46) 481.

⁹⁵ Frederick Schauer, *Thinking Like a Lawyer: A New Introduction to Legal Reasoning* (Harvard University Press, 2009) 7–8.

⁹⁶ Galloway et al (n 24) 97, 106–7.

⁹⁷ Saunders and Levine (n 27) 136.

⁹⁸ Schauer (n 95) 8–11.

⁹⁹ Steel (n 19) 233.

¹⁰⁰ *Ibid* 239.

which competence is built and refined. Regular engagement with challenging tasks strengthens the capacity for such engagement. Conversely, removing opportunities for practice can leave cognitive capacities underdeveloped or allow them to atrophy.¹⁰¹

These processes require metacognitive regulation, which enables learners to persist through difficulty, to recognise when their understanding is incomplete, and to guard against accepting ‘myside bias’, the tendency to evaluate evidence in favour of one’s existing view, or intuitive errors.¹⁰² In legal education, this manifests in knowing which questions to ask, recognising when an issue requires further research, and analysing problems from multiple perspectives.¹⁰³ Like domain knowledge, metacognitive regulation develops through practice in which students learn to monitor their understanding by repeatedly encountering its limits. Metacognition, the core mechanism of meta-competence, thus enables the effortful learning that builds competence, and is itself built through that same effortful process.

Social competence does not develop through a separate, independent process. What Hamilton, drawing on the Carnegie Foundation studies, terms the ‘third apprenticeship’ of professional formation is the development of an ethical professional identity encompassing the ‘internalization of elements like a deep responsibility to the person served,... moral reasoning, social responsibility to the community and the public good, and an understanding of interpersonal relationships.’¹⁰⁴ He argues that professional formation is most effective when it is integrated throughout professional education rather than taught in isolation.¹⁰⁵ This means that professional identity develops *through* the cognitive and functional work described above. When students struggle with a legal problem, receive feedback on their reasoning, and reflect on their analysis, they are simultaneously forming the habits of self-scrutiny and professional responsibility that Hamilton captures in the FDR loop of actively seeking Feedback, Dialogue, and Reflection.¹⁰⁶ The NSW Solicitor Capability Framework similarly recognises professionalism, integrity and ethics, and solicitor-client relationships as primary capabilities that develop progressively across a practitioner’s career, from foundational recognition of ethical issues and client needs through to leadership in fostering cultures of professional responsibility.¹⁰⁷ Taken together, these accounts suggest that social competence is not a freestanding dimension that can be developed independently of the others; instead, it emerges from and is

¹⁰¹ Hao-Ping (Hank) Lee et al, ‘The Impact of Generative AI on Critical Thinking: Self-Reported Reductions in Cognitive Effort and Confidence Effects from a Survey of Knowledge Workers’ in *Proceedings of the 2025 CHI Conference on Human Factors in Computing Systems* (ACM, 2025) 1 <<https://dl.acm.org/doi/10.1145/3706598.3713778>>.

¹⁰² Byrnes and Dunbar (n 46) 486.

¹⁰³ Gantt (n 92) 439.

¹⁰⁴ Hamilton (n 35) 772, 796.

¹⁰⁵ Ibid 783, 796.

¹⁰⁶ Ibid 796.

¹⁰⁷ The Law Society of New South Wales (n 10).

sustained by the same effortful, reflective practices that build cognitive, functional and meta-competence.

C *GenAI and the Disruption of Competence Development and Assessment*

By performing the retrieval and basic synthesis of legal information that once required substantial effort, GenAI reduces the distinctive value of knowledge recall and raises the relative importance of the competences GenAI cannot reliably supply. This section examines three consequences of this disruption: GenAI severs the link between output and competence; it discourages the necessary struggle through which competence develops; and these dynamics converge into what might be termed the ‘novice paradox’ in which students do not yet know what they do not know. Significant implications for assessment design follow.

1 *GenAI Severs the Link Between Output and Competence*

GenAI disrupts the alignment between output and the underlying development and assessment of competence. Take a legal hypothetical as an example. Current GenAI models can generate text that identifies issues, states legal rules, and applies those rules to facts in a form that can closely resemble competent legal analysis.¹⁰⁸ Whether GenAI is genuinely competent is contested.¹⁰⁹ What matters for present purposes is that students now have ready access to a technology that can produce output resembling competent legal analysis. GenAI availability severs the long-assumed link between a student’s assessment output and that student’s own competence. Educators may continue to mark outputs and assign grades, but the inference that a competent-looking output evidences a competent student is no longer sound where students have unfettered access to GenAI to complete the assessment.

This is also why the analysis centres on the human competences the Legal Competence Framework identifies, rather than on the shifting boundary of what GenAI can do. To the extent that GenAI performs aspects of legal work, the distinctive value of a law graduate lies increasingly in what GenAI does not reliably supply, namely the judgment to exercise discretion and to evaluate GenAI’s output, the

¹⁰⁸ Research on GenAI responding to legal questions includes: Choi and Schwarcz (n 2); Peoples (n 2); Alimardani, ‘Borderline Disaster’ (n 2); Alimardani, ‘Generative Artificial Intelligence vs Law Students: An Empirical Study on Criminal Law Exam Performance’ (n 2); Ouellette et al (n 2); Katz et al (n 2); Magesh et al (n 2); Choi, Monahan and Schwarcz (n 2); Doyle and Tucker (n 2); Hargreaves (n 2).

¹⁰⁹ Kyle Mahowald et al, ‘Dissociating Language and Thought in Large Language Models’ (2024) 28(6) *Trends in Cognitive Sciences* 517; Sheng Lu et al, ‘Are Emergent Abilities in Large Language Models Just In-Context Learning?’ in *Proceedings of the 62nd Annual Meeting of the Association for Computational Linguistics (Volume 1: Long Papers)* (Association for Computational Linguistics, 2024) 5098 <<https://aclanthology.org/2024.acl-long.279>>. Cf DeepSeek-AI et al, ‘DeepSeek-R1: Incentivizing Reasoning Capability in LLMs via Reinforcement Learning’ (2025) 645 *Nature* 633.

professional values to navigate ethical complexity, and the self-awareness to recognise the limits of both one's own knowledge and GenAI tools. These functional, social and meta-competences remain a human responsibility as a matter for professional regulation, however capable the tool becomes. It is the development and assessment of these competences that the remainder of this Part addresses.

2 *GenAI Discourages the Necessary Struggle for Competence*

The assessment validity problem is compounded by a developmental one. GenAI does not merely produce outputs that resemble competence. Unfettered access to GenAI removes the conditions under which competence develops. The psychological foundations examined above establish that competence development requires effortful engagement with difficult material, including the discomfort of tolerating uncertainty. Research on knowledge workers¹¹⁰ using GenAI finds that it reduces the perceived effort required for critical thinking tasks, particularly among users with higher confidence in AI capabilities.¹¹¹ Where analytical thinking must ordinarily be actively engaged, AI-generated outputs invite acceptance by default. Users report adopting a mental model that assumes AI is competent, leading them to overestimate its capabilities and reduce their own critical scrutiny.¹¹²

Studies of students using GenAI in learning environments have identified a tendency toward 'metacognitive laziness', defined as 'learners' dependence on AI assistance, offloading meta-cognitive load and less effectively associating responsible metacognitive processes with learning tasks'.¹¹³ A related dynamic observed within legal education is what Alimardani terms 'verification drift'. As a user engages with GenAI output, a growing confidence in its apparent accuracy 'diminishes the rigor of subsequent critical evaluation' so that students who had been instructed to verify GenAI output, and warned of its limitations, nonetheless reproduced inaccurate AI-generated material.¹¹⁴ Instant, authoritative-sounding answers generated by GenAI thus present students with what has been described as a 'temptation' they must actively resist.¹¹⁵

The cumulative effect is what has been termed the 'irony of automation', in which the unstructured mechanisation of cognitive

¹¹⁰ Defined as workers who understand a body of knowledge and generate new information from this understanding which changed either the organisation or its customer in a direct way: Alison Kidd, 'The Marks Are on the Knowledge Worker' in *Proceedings of the SIGCHI Conference on Human Factors in Computing Systems* (ACM, 1994) 186, 186.

¹¹¹ Lee et al (n 101) 2.

¹¹² Ibid 11.

¹¹³ Yizhou Fan et al, 'Beware of Metacognitive Laziness: Effects of Generative Artificial Intelligence on Learning Motivation, Processes, and Performance' (2025) 56 *British Journal of Educational Technology* 489, 506.

¹¹⁴ Alimardani, 'Borderline Disaster' (n 2) 215.

¹¹⁵ Xiaoqing Xu et al, 'Enhancing Self-Regulated Learning and Learning Experience in Generative Environments: The Critical Role of Metacognitive Support' (2025) 56(5) *British Journal of Educational Technology* 1842, 1845.

tasks deprives users of the opportunity to practise their judgment and strengthen their cognitive capacities, leaving them unprepared when more demanding situations arise.¹¹⁶ In professional contexts, this may lead to the atrophy of existing skills. In educational contexts, where students are acquiring, rather than maintaining, competence, the consequence may be more fundamental as the capacities may never develop.

Empirical studies in the educational context provide a mixed picture.¹¹⁷ For example, Bednar et al conducted a randomised controlled trial of upper-level US law students.¹¹⁸ The study's principal findings appeared encouraging. The study found that GenAI 'does not inevitably erode or promote independent legal reasoning',¹¹⁹ and students who used GenAI to prepare the initial synthesis memorandum produced markedly stronger work and, contrary to the authors' own hypothesis, showed no decline on a later closed-book comprehension test or on an AI-free task applying the law to a fact pattern when compared to students who did not use GenAI.¹²⁰ However, two features of the study bear on the present argument. First, the downstream benefit AI provided was instrumental rather than cognitive as student comprehension was statistically indistinguishable between the control group and the AI-assisted group, and the application-task advantage disappeared once the quality of the synthesis memorandum was controlled for. It was the better artefact, and not better understanding, that carried the gain.¹²¹ This exemplifies precisely the disconnect between output and competence described above. Second, on a final revision task in which all participants used GenAI to revise work they had drafted without it, weaker students improved while stronger students regressed: the weaker the student, the more they improved, and the stronger the student, the more they regressed.¹²² Because both groups used GenAI at this stage, the compression of stronger and weaker work toward an undifferentiated middle is a property of AI-assisted revision itself, rather than of any prior GenAI dependence.¹²³ That able students deferred to fluent, authoritative output to their detriment suggests a developmental vulnerability to GenAI output.

¹¹⁶ Lee et al (n 101) 1, 11.

¹¹⁷ Nicholas Bednar et al, 'Artificial Intelligence and Human Legal Reasoning' (Research Paper No 2026-21, University of Minnesota Law School, 2026); Choi and Schwarcz (n 2).

¹¹⁸ Bednar et al (n 117): Participants were divided into two groups, with each group completing four tasks. The 'control group' could not use AI until the final revision task. The 'AI-exposed group' used AI during the synthesis task and the final revision task, but not during the comprehension and application tasks.

¹¹⁹ Ibid 2, 59.

¹²⁰ Ibid 43–4.

¹²¹ Ibid 7–8.

¹²² Ibid 44–5. See also Choi and Schwarcz (n 2) 409 in which the authors found 'the effect of AI assistance varied significantly depending on baseline student performance; low-performing students received a substantial boost, while top-performing students may have been harmed by access to AI'.

¹²³ Bednar et al (n 117) 44.

3 *The Novice Paradox*

These dynamics converge into the novice paradox. Students cannot reliably identify when GenAI output is wrong because the knowledge needed to recognise errors has not yet developed. Even students with strong metacognitive dispositions face this constraint.¹²⁴ Moreover, relying on GenAI before acquiring sufficient cognitive competence may impede that competence from developing.¹²⁵ If the effortful engagement through which expertise is built is bypassed, students may never develop the capacity to verify GenAI outputs. The tool is most seductive when users are least equipped to use it critically, and using it uncritically impedes becoming equipped.

The novice paradox extends its disruption to social competence. Because social competence develops through the reflective and interpersonal dimensions of cognitive and functional work, the same substitution that prevents students from building domain knowledge and reasoning skills also removes opportunities to form professional identity. A student who offloads legal analysis to GenAI does not just bypass the cognitive struggle; they bypass the feedback, dialogue, and reflection through which the habits of professional responsibility are cultivated.¹²⁶

The relationship between GenAI and student learning is not inevitably negative. Research suggests that GenAI's effects on student learning are dependent on the design of the learning activity and its ability to naturally delineate between the student's work and the work performed by GenAI. Designs that promote critical engagement include tasks incorporating mechanisms that constrain what students delegate to GenAI,¹²⁷ and tasks that scaffold GenAI in a way that provides metacognitive support and directs students' attention back to their own reasoning.¹²⁸ However, studies also suggest that the absence of such mechanisms is not neutral but can be harmful to student learning.¹²⁹ Moreover, general instructions on how to use GenAI and the risks associated with its use appear insufficient as an effective mechanism,¹³⁰

¹²⁴ Meyer and Noël (n 90) 292.

¹²⁵ Hamsa Bastani et al, 'Generative AI without Guardrails Can Harm Learning: Evidence from High School Mathematics' (2025) 122(26) *Proceedings of the National Academy of Sciences* e2422633122, 5–6, in which the authors found that AI tools such as ChatGPT come with the risk of deteriorating students' ability to develop the skills required to solve the tasks. Cf Bednar et al (n 117), in which the authors found early AI use produced no comprehension decline (between the synthesis task and the comprehension task) under a task design requiring verification against source materials.

¹²⁶ See Fan et al (n 113).

¹²⁷ Bastani et al (n 125).

¹²⁸ Xu et al (n 115).

¹²⁹ Ibid, in which the authors found that students who did not have metacognitive support were at risk of decreasing their level of self-regulated learning in the GenAI environment.

¹³⁰ Alimardani, 'Borderline Disaster' (n 2) 216.

as is express permission to reject GenAI output.¹³¹ Every assessment that allows GenAI implicitly or explicitly allocates cognitive work between student and GenAI. The design challenge is controlling which work is reserved for the student, and evaluating whether the student is sufficiently equipped to do that work.

4 *Implications for Assessment Design*

As the above analysis has demonstrated, supervised assessments, such as written examinations, viva voce assessments and in-class work, which limit or exclude use of GenAI, can effectively address the cognitive and functional competence requirements of the Priestley 11, TEQSA, AQF and TLOs. Conversely, unsupervised assessments open to GenAI are at risk of failing to assure that students, rather than GenAI, have done the work.

Supervised assessments collectively address the competence dimensions the regulatory frameworks require, with the important addition that carefully designed viva voce assessments and in-class work have potential to capture oral communication and social competence which written examinations cannot. Viva voce assessments must be conducted in person to reliably exclude GenAI, given the vulnerability of online formats to AI-generated assistance or avatars.¹³² Moreover, partial open book examinations (where students can bring prepared notes) encourage students to develop cognitive and functional competence, in advance of the exam, through preparing their notes. The developmental benefit lies in the student's own synthesis: evaluating and organising course materials in the light of their personal understanding builds cognitive, functional and meta-competence. Where a student instead has GenAI generate the notes, that developmental benefit is lost. However, as the examination itself is supervised, students must still deploy their understanding under supervised conditions. The supervised setting thus preserves much of the assessment's value even against AI-generated preparation. In-class assessments also offer potential to integrate GenAI in controlled environments. For example, tasks requiring students to interact with GenAI, acting as a simulated client, enable assessment of both professional skills and critical engagement with GenAI outputs.¹³³

While supervised assessments solve many of the problems created by GenAI by ensuring students have topic expertise, problem-solving skills and written communication skills, this assessment modality cannot effectively assess skills such as legal research or competent use of GenAI, nor provide the environment necessary to encourage effortful

¹³¹ Bednar et al (n 117), in which the revision-task gave students permission to accept all, some, or none of GenAI's suggested edits. The authors found strong students regressed despite explicit licence to reject everything.

¹³² See, eg, Said Altan, 'Caught by the Proctor: Inside the AI Cheating Arms Race in Tech Interviews', *Rolevanta* (Blog Post, 17 July 2026) <<https://rolevanta.com/blog/interview-cheating-arms-race-2026>>.

¹³³ John Bliss, 'Teaching Law in the Age of Generative AI' (2024) 64 *Jurimetrics* 111, 152–3.

engagement. Research and GenAI skills are required by the regulatory frameworks (research is a TLO and AQF requirement; GenAI competence is increasingly an employment-readiness requirement under TEQSA).¹³⁴ Unsupervised assessment, therefore, retains a crucial role.

The design principle that follows from this article's analysis is a shift in the object of assessment from product to process. Where the product (eg a student essay) no longer reliably evidences competence, the process can. For example, staged submissions that record how a research question was refined; research trails documenting the sources consulted, validated and rejected; records of GenAI interaction accompanied by the student's critical evaluation of the output; and short oral components in which students explain and defend the choices they made. Assessment of this kind makes the allocation of cognitive work between student and GenAI visible, and directs marking towards precisely the functional, social and meta-competences that unsupervised tasks develop. The challenge that follows from this analysis is to design a suite of assessments, supervised and unsupervised, that addresses all four elements of the Legal Competence Framework. That suite must include some unsupervised tasks that assess students' process of engaging with, and critically evaluating, sources and GenAI outputs.

V CONCLUSION

This article has employed Le Deist and Winterton's competence framework as an analytical lens, developing it for the legal sector as the Legal Competence Framework. Viewed through its four dimensions, the obligations imposed by the Priestley 11, the HESF, the AQF and the TLOs, which can appear fragmented, coalesce. Those dimensions also align with the profession's own articulation of its capability requirements, as expressed in the NSW Solicitor Capability Framework. By focusing on cognitive competence, functional competence, social competence and meta-competence, this article has disentangled the web of legal education regulatory obligations to demonstrate that the full breadth of capability demanded by the regulatory and recommended frameworks falls within these four key competences.

The article has applied the Legal Competence Framework to demonstrate how GenAI imposes multiple compounding stressors on legal education. The traditional focus on topic-based knowledge, reflected in the Priestley 11 legislated legal education requirements, while still important, necessarily cedes significant ground to the other competences. Functional competence, social competence and meta-competence have long been requirements of legal education, as demonstrated by their roles in the HESF, AQF and TLO frameworks. GenAI further increases the importance of these non-knowledge based legal competences because discerning when to use GenAI and

¹³⁴ See Part III above.

evaluating GenAI outputs rely heavily on critical analysis (functional competence), professional values (social competence) and awareness of personal and GenAI limitations (meta-competence). Students struggle to reliably identify when GenAI output is wrong because they lack the knowledge needed to recognise GenAI errors. Further, unfettered access to GenAI undermines the conditions under which competence develops in the first place. The temptation for students to rely uncritically on GenAI outputs compounds the problems.

GenAI exposes the shortcomings of traditional assessments in covering the four core competences identified in the Legal Competence Framework. Simultaneously, GenAI makes it more challenging to assess legal competences because of its ability to produce output which resembles competent human output. With traditional unsupervised legal assessment outputs no longer serving as a proxy for competence, legal educators must devise innovative ways to assess the process of acquiring competence in order to make the student's own contribution visible and assessable. Traditional forms of supervised assessment, such as written examinations, viva voce assessments and in-class assessments, are effective at assessing many aspects of the Legal Competence Framework by creating environments where GenAI can be effectively excluded or controlled. However, supervised assessment, by itself, does not fully cover the requirements of the Legal Competence Framework. As GenAI continues to evolve, the ability to think critically, exercise professional judgment, and recognise the limits of one's own knowledge will increasingly distinguish competent lawyers from those who merely produce competent-looking outputs. Legal education, especially assessment design, must evolve accordingly.