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KEEP IT REAL: THE CASE FOR INTRODUCING AUTHENTIC TASKS IN A UK UNDERGRADUATE LAW DEGREE

SADIE WHITTAM*

I INTRODUCTION

Law schools are under increasing pressure from both current and prospective students and external stakeholders to ensure that legal studies are practical and useful.¹ One way to ensure that legal studies are perceived as relevant by both students and the profession is to engage students in authentic tasks that simulate real-life situations, as these ‘can raise aspirations and increase intrinsic student motivation through explicit demonstration of career alignment and relevance of curriculum activities’.² Considering both secondary data and feedback from a primary, small-scale empirical study of students taking an optional Civil Litigation and Dispute Resolution module grounded in authentic learning and assessment techniques, this article considers whether authentic learning and assessment in law can increase student employability and engagement. The findings of the author’s small-scale, ethics-approved empirical survey support existing research,³ which indicates that students find participation in authentic tasks enhances their employability,⁴ skills development,⁵ and engagement.⁶ It is acknowledged that practicalities, such as a lack of time and

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¹ Noelle Higgins, Elaine Dewhurst and Los Watkins, ‘Field Trips as Short-Term Experiential Learning Activities in Legal Education’ (2012) 46 (2) *The Law Teacher* 165, 166.

² Queensland University of Technology, *Protocols: First Year Experience* (Protocol, August 2011) 10 cited in Dan Berger and Charles Wild, ‘Enhancing Student Performance and Employability Through the Use of Authentic Assessment Techniques in Extra and Co-Curricular Activities (ECCAs)’ (2017) 51 (4) *The Law Teacher* 428, 433.

³ Lancaster University FASS-LUMS Research Ethics Committee, Approval number FL20097 (13 April 2021).

⁴ Popi Sotiriadou et al, ‘The Role of Authentic Assessment to Preserve Academic Integrity and Promote Skill Development and Employability’ (2020) 45 (11) *Studies in Higher Education* 2132, 2134.

⁵ Ibid 2134.

⁶ Noel Meyers and Duncan Nulty, ‘How to Use (Five) Curriculum Design Principles to Align Authentic Learning Environments, Assessment, Students’ Approaches to Thinking and Learning Outcomes’ (2009) 34 (5) *Assessment & Evaluation in Higher Education* 565, 570.

resources, can act as a barrier to the introduction of authentic tasks. However, it is suggested that there are ways to introduce authentic ‘moments’ in existing law modules that do not necessitate wholesale changes to teaching and assessment. This paper and the debate surrounding the teaching of practical skills in the undergraduate law degree are particularly timely considering the introduction of the Solicitors Qualifying Examination (‘SQE’), which has encouraged law schools to consider anew the extent to which they will teach practical skills in the undergraduate law degree.

II LITERATURE REVIEW: PRACTICAL LEGAL SKILLS AND THE UNDERGRADUATE LAW DEGREE

There is now an increasing expectation from students and the legal sector that a legal education will not focus exclusively on teaching students the letter of the law but will also equip students with the key skills that they will need to practise in the profession.⁷ As Higgins, Dewhurst and Watkins note:

Law Schools are under ever-increasing pressure, both from within the legal profession and from outside influences, including law firms, to provide some form of interaction with the real world, in order to develop knowledge, expand skill sets and transform attitudes and values.⁸

Student employability is therefore important to law schools. Davies and Woo observe that:

[T]he link to employability in law schools has become increasingly explicit with employability rankings frequently prominently advertised... [the implication being] that law schools will ensure that their students have the skills and attributes employers require.⁹

The importance of skills development is reflected in the Quality Assurance Agency (‘QAA’) Subject Benchmark Statement for Law (2019),¹⁰ which states that law students should have a wide-ranging skill set, including critical judgment of the strengths of arguments, the ability to communicate orally and in writing and address complex actual

⁷ Amanda Stickley, ‘Providing a Law Degree For the “Real World”: Perspective of an Australian Law School’ (2011) 45(1) *The Law Teacher* 63, 74.

⁸ Higgins, Dewhurst and Watkins (n 1) 166.

⁹ Gemma Davies and Margaret Woo, ‘Navigating Troubled Seas: The Future of the Law School in the United Kingdom and the United States’ (2018) *Contemporary Issues in Legal Education* 43, 63.

¹⁰ The QAA Subject Benchmark Statements set out what may be expected of a graduate in relation to their knowledge and understanding at the end of their studies in specific subject areas. The QAA Subject Benchmark Statements are drafted by subject experts, but they are not prescriptive or regulatory. In the UK, to be admitted as a Solicitor, the regulatory framework requires that students have a degree in any subject or an equivalent qualification or experience. Students must also pass the Solicitors Qualifying Examination, complete two years of qualifying work experience and satisfy the Solicitors Regulation Authority’s character and suitability requirements. There is a different regulatory process to qualify as a barrister.

or hypothetical problems.¹¹ The research of Professors Schultz and Zedeck also highlights that lawyers require a comprehensive skill set; following their extensive study of 2,000 lawyers, they identified 26 key skills that are necessary to be an effective lawyer.¹² The key legal skills identified by Schultz and Zedeck include creativity and innovation, practical judgment, researching the law, questioning and interviewing, influencing and advocating, speaking and negotiation.¹³ However, many of the wide-ranging skills identified in the QAA Statement for Law, and in Schultz and Zedeck's study of the skills needed for effective lawyering, are not adequately taught or assessed in law schools.¹⁴ The prevailing emphasis on substantive law over the development of practical legal competencies is evidenced by the fact that most UK law schools use a traditional 'one-shot' unseen examination as a core method of assessment.¹⁵ Traditional closed book exams, which are hegemonic in UK legal education, require students to memorise 'large tracts of substantive law in order to demonstrate mastery over it...'.¹⁶ However, as Maharg notes, this type of 'rote learning can be a passive, inert rehearsal of information, which encourages docility in students...[and which can] 'degenerate into frantic exam cramming, wherein facts are superficially rehearsed for the exam and then largely forgotten after it'.¹⁷

The view that many undergraduate law degrees do not adequately equip students with key practical competencies has been reflected by a study of newly qualified solicitors, in which participants reported that: 'law degrees provided them with basic legal skills and awareness but that both their studies and their competence to practise would have benefited from more experience of applying the law in practical situations'.¹⁸ Henderson concludes that 'widespread, loud, and relentless student concerns are the law schools' miner's canary' that signal that something is 'direly wrong in legal education', and it is increasingly apparent that to satisfy the demands of students and the profession, law schools must extend their teaching and assessment of practical legal skills in the undergraduate law degree.¹⁹

¹¹ 'QAA Subject Benchmark Statement: Law', *Quality Assurance Agency* (Web Page, November 2019) <<https://www.qaa.ac.uk/docs/qaa/subject-benchmark-statements/subject-benchmark-statement-law.pdf>> 5.

¹² Marjorie Schultz and Sheldon Zedeck, *Identification, Development, and Validation of Predictors for Successful Lawyering* (Report, 2008) <<https://www.law.berkeley.edu/files/LSACREPORTfinal-12.pdf>> 26. The author notes that Professors Schultz and Zedeck conducted their research in America, but it is still applicable in relation to the competencies required of UK lawyers.

¹³ Ibid 26.

¹⁴ Berger and Wild (n 2) 429-430.

¹⁵ Ibid 429.

¹⁶ Paul Maharg, 'The Culture of Mnemosyne: Open-Book Assessment and the Theory and Practice of Legal Education' (1999) 6(2) *International Journal of the Legal Profession* 219, 222.

¹⁷ Ibid 227.

¹⁸ Andrew Boon and Avis Whyte, 'Looking Back: Analysing Experiences of Legal Education and Training' (2007) 41(2) *The Law Teacher* 169, 174.

¹⁹ Bethany Henderson, 'Asking the Lost Question: What is the Purpose of Law School' (2003) 53(1) *Journal of Legal Education* 48, 79.

The debate surrounding the teaching of practical skills, and the role of the law school, now has fresh significance considering the introduction of the Solicitors Qualifying Examination ('SQE') from September 2021. The SQE is the new route to qualify as a solicitor in England and Wales, and its introduction marks the demise of the Legal Practice Course ('LPC') (the practical skills course that all would-be solicitors were previously required to complete), and the end of the qualifying law degree.²⁰ Traditionally, law students are taught theoretical and conceptual knowledge on an undergraduate law degree where they also receive some training in core legal skills, such as legal research and statutory interpretation, sometimes as part of a separate Legal Skills module. However, vocational elements of lawyering, such as drafting, advocacy and conducting client meetings, was typically consigned to the LPC or the Bar Course (the professional qualification that aspiring barristers are required to complete). The introduction of the new route to qualification as a solicitor poses a challenge for law schools, which must now decide the extent to which practical competencies traditionally taught on the LPC are integrated into the law degree.²¹ The approach taken by institutions is likely to differ, with some incorporating preparation for the SQE in their law degree. Other institutions will not offer SQE preparation and will instead commit to offering a liberal law degree, which 'is not aimed at preparing students for a particular job or profession'.²² Proponents of this view argue that a legal education should be an end in itself, and a law degree should not incorporate training to enter the profession because not all law students do pursue a career in the law after graduation. A third approach is likely to be a halfway model whereby institutions view the law degree as a period of intellectual training in the context of university, with an understanding that many students will go on to practise law.²³ This paper does not seek to examine the role and purpose of the law school, and there have been many rich discussions on this topic elsewhere.²⁴ However, it is important to note that the introduction of the SQE gives new importance to the question of whether – and, if so, to what extent – law schools should incorporate practical competencies alongside the learning of substantive law.

Considering the growing demands from students and the profession that legal education should be applied and useful, the inclusion of authentic learning and assessment methods in the undergraduate law degree is a compelling proposition. Authentic learning and assessment has been described as 'closely aligned with activities that take place in real work settings, as distinct from the often artificial constructs of

²⁰ Dawn Jones, 'Legal Skills and the SQE: Confronting the Challenge Head On' (2019) 53(1) *The Law Teacher* 35, 36.

²¹ Ibid 36.

²² Ibid 36.

²³ C. Hart et al, 'The Real Deal: Using Authentic Assessment to Promote Student Engagement in the First and Second Years of a Regional Law Program' (2011) 21(1) *Legal Education Review* 97, 103.

²⁴ See, eg, (per rule 1.2) Richard Bowyer, 'Regulatory Threats to the Law Degree: The Solicitors Qualifying Examination and the Purpose of Law Schools' (2019) 30 *Law Critique* 117, 119.

university courses'.²⁵ At its core, authentic learning and assessment has an element of realism.²⁶ For example, an authentic task might involve asking students to design a simulated marketing campaign in a business module, or requiring students to interview a fictitious patient as part of a medical course. Authentic tasks can help students connect theory and practice, and research indicates that authentic learning and assessment has the potential to engage students,²⁷ enhance graduate employability,²⁸ and promote skills development.²⁹ In the next section of this paper, the introduction of an undergraduate Civil Litigation module that uses authentic learning and assessment pedagogies is examined, and student feedback regarding their experience of authentic learning and assessment in the module is considered.

A Case Study: Authentic Learning and Assessment in an Undergraduate Civil Litigation and Dispute Resolution Module

The Civil Litigation and Dispute Resolution module was designed and is convened by the author, and it is an optional 30-credit (full year) module that is open to second- and third-year Law students in a UK Law school. The module uses authentic learning and assessment throughout, and the students follow a simulated commercial litigation case which develops each week as the students are given additional documents and information. Throughout the course, students are asked to complete the key stages of a case, such as drafting a letter before action to the other side, drafting a claim form and particulars of claim, participating in a small-scale disclosure exercise, representing their simulated client in a mock mediation and conducting advocacy in the mock courtroom. The module draws on methods of teaching and assessment that are used in the LPC, and students are exposed to realistic legal situations and authentic materials that allow them to apply their academic legal knowledge.³⁰ Throughout the module, students are given extensive guidance and support, such as exemplars for each document that they draft (which are provided after the student has completed their drafting and received feedback from either the lecturer or a peer), guides (for example, for advocacy) and checklists. This is important, as research suggests that authentic learning and assessment must be offered alongside a structured approach and guidance, and this can improve student performance.³¹ In addition, research into law student learning patterns has demonstrated that students consistently express a strong preference for exemplars and templates.³²

²⁵ David Boud and Nancy Falchikov, *Rethinking Assessment in Higher Education* (Routledge, 2007), 23.

²⁶ Kelley Burton, 'A Framework for Determining the Authenticity of Assessment Tasks: Applied to an Example in Law' (2011) 4(2) *Journal of Learning Design* 20, 21.

²⁷ Meyers and Nulty (n 6) 570.

²⁸ Sotiriadou et al (n 4) 2134.

²⁹ Ibid 2134.

³⁰ Jones (n 20) 42.

³¹ Hart et al (n 23) 119-120.

³² Ibid 119-120.

Students are also assessed via authentic assessment techniques. Their assessment comprises an advocacy assessment which constitutes 40% of their final grade, and a take home portfolio which makes up the remaining 60% of their final grade. In the first year that the module ran (2020-2021), the assessment also included an essay element (the relative weightings were 20% advocacy; 30% essay; and 50% take home portfolio), but student feedback regarding the lack of authenticity of the essay exercise prompted the author to remove this element for future cohorts and instead increase the depth and relative weightings of the advocacy and portfolio assessments. In the advocacy assessment, students are asked to conduct advocacy at a return date hearing for an interim injunction application. The use of an advocacy assessment is authentic, as oral communication is a key skill to be an effective lawyer.³³ In addition, an advocacy assessment effectively tests many of the skills identified by Schultz and Zedeck as fundamental to being an effective lawyer, including analysis and reasoning, creativity and innovation, problem solving, practical judgment, influencing and advocating, speaking and listening.³⁴ In the advocacy assessment, the tutor sits as the 'judge' and the students' arguments are recorded. The authenticity of the assessment is also promoted as the assessment takes place in an authentic mock courtroom (the exception to this was in the academic year 2020-21 when the Covid-19 pandemic necessitated that the advocacy was conducted via Teams rather than in-person. However, this was also authentic as the pandemic necessitated that many qualified lawyers conducted advocacy virtually rather than in a physical courtroom). While most practical courses are delivered in standard classrooms, this is inauthentic to the environment experienced in practice.³⁵ The advocacy assessment takes place in an authentic mock courtroom which has spectator areas and realistic and imposing decor.³⁶ However, it is important to note that not all scholars agree on the importance of the authenticity of the physical setting of an authentic assessment task, and Burton has argued that where the task takes place '...is not totally conclusive of whether it is authentic, and unit coordinators should focus more on whether students are mimicking professionals'.³⁷

As many of the students have not conducted advocacy before and it is a sharp deviation from the traditional forms of assessment used in law, the students are taught about advocacy in class and can practice with their peers and apply the advocacy assessment marking criteria. In addition, the students have a formative advocacy assessment based on different case study facts. This zero-credit exercise allows them to practise their skills, receive feedback from the tutor and develop assessment literacy. The use of a formative assessment in authentic

³³ Andrea Curcio, 'Assessing Differently and Using Empirical Studies to See if it Makes a Difference: Can Law Schools Do it Better?' (2009) 27 *Quinnipiac Law Review* 899, 908.

³⁴ Ibid 901 and Schultz and Zedeck (n 12) 26.

³⁵ Berger and Wild (n 2) 434.

³⁶ Ibid 434.

³⁷ Burton (n 26) 24.

assessment is a powerful tool, as ‘students are given a practice exam similar to the actual exam (enabling learning through practise), as well as feedback and explicit instructions on strategies, learning improves’.³⁸

In addition to the advocacy exam, students are also assessed via a week-long, take-home portfolio assessment. In this assessment, students are given realistic case study facts and supporting documents (for example, a simulated interview note between the client and a supervising solicitor) and they are asked to draft legal documents and answer a series of legal questions (for example, drafting an email to a client advising whether to accept a settlement offer). Students are prepared for this assessment as, throughout the module, they complete similar drafting and legal problem exercises based on different case study facts, and receive formative feedback, either in the form of personalised feedback from the tutor, peer feedback or exemplars.

Formative feedback is key to developing student assessment literacy and confidence, and Hattie has argued that ‘feedback is one of the most powerful influences on learning and achievement’.³⁹ The students have one week to complete their portfolio and have access to all their resources, including textbooks, exemplars, feedback on their work and practitioner databases such as Practical Law. Asking students to produce their portfolio of work over the course of a week, and giving them access to resources, is an authentic and learner-centred method of assessment as it gives students autonomy to apply their practical skills in a real-world situation.⁴⁰ In practice, no lawyer would be expected to produce polished legal documents and considered responses to a client in an artificial setting such as an exam hall, in a highly restricted timeframe and without access to any resources or precedents. The take home portfolio therefore removes the artifice of a traditional exam and provides students with experience of what happens in practice. This is a key feature of authentic assessment. As Wiggins notes:

[A]uthentic tests do not rely on unrealistic and arbitrary time constraints, nor do they rely on secret questions or tasks. They tend to be like portfolios or a full season’s schedule of games, and they emphasize student progress towards mastery.⁴¹

Burton’s research is helpful when considering whether the advocacy and portfolio assessments used in the Civil Litigation and Dispute Resolution module are truly authentic. From her literature review, Burton has developed 10 key questions to assist module convenors in determining whether their assessment tasks are truly authentic.⁴² Burton states that these questions can be answered with a ‘yes’ or ‘no’ response, and when the answer is ‘no’, this indicates to module

³⁸ Hart et al (n 23) 120.

³⁹ John Hattie and Helen Timperley, ‘The Power of Feedback’, (2007) 77(1) *Review of Educational Research* 81, 81.

⁴⁰ Noeleen McNamara, ‘Authentic Assessment in Contract Law: Legal Drafting’, (2017) 51(4) *The Law Teacher* 486, 489.

⁴¹ Grant Wiggins, ‘A True Test: Towards More Authentic and Equitable Assessment’ (1989) 70(9) *The Phi Delta Kappan* 703, 711.

⁴² Burton (n 26) 25.

convenors a way in which the authenticity of the task can be increased.⁴³ In the table below are Burton’s questions and the answers for both the advocacy assessment and the take home portfolio assessment.

Table 1
Evaluating Assessment Authenticity

Burton’s questions to evaluate the authenticity of an assessment task⁴⁴	Answers for the advocacy assessment	Answers for the take home portfolio assessment
Is the student required to mimic a professional in the real world?	Yes	Yes
Is the student required to complete the assessment task using resources similar to those in the workplace?	Yes	Yes
Is the student required to complete the assessment task under realistic conditions?	Yes	Yes
Does the assessment task produce a valuable, polished product?	Yes	Yes
Is higher order thinking or meta-cognition seamlessly integrated with the assessment task?	Yes	Yes
Is reflection seamlessly integrated with the assessment task?	No	No
Is self-assessment seamlessly integrated with the assessment task?	No	No
Does the student collaborate with other stakeholders (for example, professionals/students) when completing the assessment task?	No	No
Does the student need to exercise judgement or choice in determining sub-tasks of the assessment task?	Yes	Yes
Does the assessment task produce novel or diverse responses?	Yes	Yes

Applying Burton’s mapping process, both the advocacy assessment and the portfolio scored an ‘authenticity score’ of 7/10.⁴⁵ Although the students conduct advocacy against each other and sit before a practising solicitor (sitting as judge), this cannot really be said to be collaboration, and group work would not be appropriate for this type of assessment as the students are given an individual grade for their advocacy preparation and delivery. Similarly, group collaboration has limited

⁴³ Ibid 25.

⁴⁴ Ibid 25.

⁴⁵ Ibid 25.

relevance for the take-home portfolio exercise, as the aim of the portfolio is to assess each student's individual drafting ability and critical reasoning skills. However, Burton's mapping exercise indicates that the authenticity of the assessment tasks for the Civil Litigation and Dispute Resolution module could be further increased by considering whether reflection and self-assessment could be integrated into the assessment tasks.⁴⁶ Nonetheless, a score of 7/10 indicates that the advocacy and take-home portfolio assessment tasks have a high degree of authenticity, and this score is higher than the assessment tasks examined in Burton's study.⁴⁷

III METHODOLOGY

In my research, I aimed to examine whether authentic learning and assessment has the potential to enhance student engagement and increase the extent to which students consider themselves to be work ready. To explore student experiences of authentic learning and assessment, students who had taken the Civil Litigation and Dispute Resolution module in academic year 2020/21 and 2021/22 were invited to complete a questionnaire about their experiences in Lent term in 2021 and 2022. The use of a questionnaire allowed me to collect data directly from students regarding their opinions and experiences of authentic learning and assessment. Students were contacted via their university email address and were invited to complete an optional, anonymous, ethics-approved survey via Qualtrics. The survey included questions asking students to provide answers using the Likert scale, and open-ended questions to seek further information.⁴⁸

Of the 40 students who took the module in the academic year 2020/21, 20 students (ie 50% of the total number of students enrolled on the course) completed the survey. Of the 38 students who took the module in the academic year 2021/22, 16 students (ie 42% of the total number of students enrolled on the module) completed the survey. In total, there were therefore 36 student respondents to the survey. The generalisability and reliability of data is extremely important when conducting research.⁴⁹ Due to the relatively small size and self-selecting nature of the students who responded to the survey, this paper does not aim to set out concrete conclusions. However, the observations in this paper are a helpful foundation for further research investigating the value of authentic learning and assessment in higher education.

⁴⁶ Ibid 27.

⁴⁷ Ibid 25, 27.

⁴⁸ Ankur Joshi et al, 'Likert Scale: Explored and Explained' (2015) 7 (4) *British Journal of Applied Science and Technology* 396, 397.

⁴⁹ Nahid Golafshani, 'Understanding Reliability and Validity in Qualitative Research' (2003) 8(4) *The Qualitative Report* 597, 601.

IV RESULTS

A *Authentic Tasks and Employability*

1 *Likert Questions*

Authentic learning and assessment opportunities have been identified as one way that students can develop their employability skills and demonstrate these to employers.⁵⁰

To examine this, survey respondents were asked to provide a Likert response to the statement 'I have gained key employability skills by taking this module'. Of the students who responded to the survey, 89% (32 students) strongly agreed with this statement, 5.5% (two students) somewhat agreed and 5.5% (two students) strongly disagreed. However, the two students who strongly disagreed with this statement later responded 'yes' to the question '[d]o you think that preparation in the module enhanced your employability?' and provided very positive open-ended feedback about the module. It is therefore probable that their selection of 'strongly disagree' may have been due to a misreading of the Likert scale on Qualtrics (notably, these two students also selected 'strongly disagree' or 'somewhat disagree' for all other Likert questions on the survey).

Later in the survey, the students were asked to provide a 'yes', 'no' or 'don't know' response to the statement '[d]o you think that participation in the module enhanced your employability?' and 97% of respondents (35 students) selected 'yes' (one student did not answer this question). This strongly suggests that law students recognise the value of authentic learning and assessment in developing their practical skills and real-world experience.

2 *Qualitative Data*

Students also considered whether the module had enhanced their employability in their open-ended feedback. Open-ended feedback is of particular value, as Cohen et al state that 'an open-ended question can catch the authenticity, richness, depth of response, honesty and candour which...are hallmarks of valid qualitative data'.⁵¹

94% of the respondents (34 students) provided open-ended feedback about how the module had enhanced their employability, and their responses were entirely positive. Some qualitative comments included:

Respondent One: 'This module has been the most useful module as it has provided me with experience of the day-to-day activities completed by trainee solicitors. This module will be a great talking point for future applications.'

⁵⁰ Sotiriadou et al (n 4) 2134.

⁵¹ Louis Cohen, Lawrence Manion and Keith Morrison, *Research Methods in Education* (New York, 8th ed, Routledge, 2018) 475.

Respondent Two: 'This module gave me experience in doing tasks that a typical trainee lawyer would do when I was struggling to gain legal work experience.'

Respondent Three: 'I have learnt how to do a lot of tasks that are given to trainee solicitors. Therefore, I feel I am now more prepared than other candidates as I already know how to, for example, draft a letter of claim, particulars of claim, etc.'

Respondent Four: 'Discussions on recent topics of interest like AI and legal tech have helped to improve my commercial awareness ... Partaking in advocacy also helped with confidence and ensuring clarity and conciseness when giving a formal presentation.'

Respondent Five: 'This is something I can evidence as really preparing me for employment eg discuss within interviews/with potential employers rather than simply learning and memorising the black letter law.'

Respondent Six: 'I feel after the civil litigation module I am more employable as it has altered how I write a CV, cover letter and conduct interviews. The written element stems from constant supervision of practical answers to letters before action, particulars of claim etc ...The spoken elements of the course mean students are better equipped for a vocal interview...'

Respondent Seven: 'It provided real insight into the work of a solicitor in practice. With this newfound knowledge, I feel better prepared when entering the legal job market.'

Respondent Eight: 'I now am confident that I want to pursue a career in a litigation department within a firm. I also have learned how to draft vital documents, conduct interviews and communicate with client and counsel through this module.'

There are common themes in the students' qualitative responses. Student feedback suggests that working on authentic tasks has given them practical experience, enhanced their perceptions of their employability and helped them feel better prepared for their future career. The students' qualitative feedback supports the existing research on this topic, which suggests that authentic learning and assessment can enhance graduate employability.⁵²

Employability and skills development are closely intertwined.⁵³ Interestingly, in the open-ended feedback, many of the skills that the students said that they had acquired mapped onto the 26 skills that Schultz and Zedeck identified as necessary for effective lawyering.⁵⁴ For example, one student noted that skills they had gained by participating in authentic tasks and assessments on the module included 'confidence, problem-solving, teamwork, communication, advocacy, organisation, commercial awareness, knowledge of the profession, drafting skills, writing proficiency, grammatical skills, critical analysis,

⁵² Sotiriadou et al (n 4) 2134.

⁵³ Lee Harvey, 'Defining and Measuring Employability' (2001) 7(2) *Quality in Higher Education* 97, 98.

⁵⁴ Schultz and Zedeck (n 12) 26.

eye for detail', many of which correlate with Shultz and Zedeck's practical skill requirements for a competent lawyer.⁵⁵

A common theme in the students' open-ended feedback was that they felt the module enhanced their employability because it helped them evidence their practical skills to legal employers. This is particularly important, as in the highly competitive legal jobs market law graduates recognise the value of distinguishing themselves from their peers by gaining relevant work experience.⁵⁶ However, vacation schemes, internships and mini-pupillages are extremely competitive, and for some students it is not financially viable to complete a period of often unpaid or low paid legal work experience.⁵⁷ Therefore, giving students the opportunity to develop practical legal skills as part of their course through authentic learning and assessment opportunities can act as a proxy for actual legal work experience, allowing students to demonstrate their graduate-ready skills and competence to employers.⁵⁸ This is supported by the existing research on authentic learning and assessment and employability, which has shown that authentic tasks have become a complementary practice to work experience in response to pressures to increase graduate employability.⁵⁹ A common critique is that higher education standards are not consistent with the expectations and requirements of the working world, and fail to provide students with real-world experiences.⁶⁰ However, through the use of authentic tasks and assessments, law graduates can develop key skills to improve their job readiness, thereby easing the transition from law school to the professional sphere.⁶¹

B *Authentic Tasks and Student Engagement*

Student engagement is increasingly recognised as a key issue in higher education globally, and 'it requires students to actively connect to the subject matter.'⁶² Student engagement is an important issue for universities for many reasons, including the high costs of poor student retention, progression rates and competition among institutions to recruit students.⁶³

In the survey, respondents were asked to provide a Likert response to the statement '[w]orking on authentic learning tasks increased my engagement with the module.' Of the respondents, 94% (34 students) strongly agreed with this statement, 3% (1 student) somewhat disagreed

⁵⁵ Ibid 26.

⁵⁶ Neal Geach and Barbara Henry, 'Authentic Assessments: Enhancing Employability, Engagement and Academic Integrity?' in Patrick Baughan, 'Assessment and Feedback in Law: Case Studies from the Sector' *Advance HE* (web page, December 2021) <<https://www.advance-he.ac.uk/knowledge-hub/assessment-and-feedback-law>> 55.

⁵⁷ Ibid 55.

⁵⁸ Ibid 55.

⁵⁹ Sotiriadou et al (n 4) 2133.

⁶⁰ Ibid 2133.

⁶¹ Stickley (n 7) 80.

⁶² McNamara (n 40) 490.

⁶³ Ibid 491.

and 3% (1 student) strongly disagreed. However, as previously discussed, the two students who selected ‘somewhat disagree’ and ‘strongly disagree’ selected these responses in every Likert question, although this was in opposition to their very positive open-ended feedback, potentially indicating a misreading of the Likert scale from the outset.

Student engagement was also a topic that some students reflected on in their open-ended feedback when asked ‘[w]hat did you most enjoy about the Civil Litigation and Dispute Resolution module?’ Some student responses to this question included:

Student A: ‘The lack of exams and heavy scholarly based exercises. Every workshop was engaging.’

Student B: ‘The very interactive lectures.’

Student C: ‘The practical elements of the course and its simulated case throughout have consistently engaged with [sic] me as well as improved my understanding of each topic.’

The fact that 94% of respondents strongly agreed that authentic learning tasks had increased their engagement with the module, and some students reflected that they found the module engaging and interactive in their open-ended feedback, suggests that authentic learning and assessment opportunities do have the potential to promote higher levels of student engagement. This is supported by the existing research on this topic, which suggests that increasing the authenticity of assessment tasks has ‘a positive influence on student learning and motivation.’⁶⁴ Authentic tasks can help students understand their intrinsic motivations for studying law, which can in turn help students reflect on the rewards of legal study and their future careers.⁶⁵ Both the existing research on this topic, and the survey results, therefore support the notion that engaging students in real-life tasks can increase student motivation and engagement with the subject matter.

V BARRIERS TO INTRODUCING AUTHENTIC LEARNING AND ASSESSMENT OPPORTUNITIES

If authentic learning and assessment has the potential to increase student employability, engagement and motivation, one might wonder why this pedagogy is not being used universally in higher education institutions. Therefore, it is important to note that there are challenges to introducing authentic learning and assessment opportunities in law school. Berger and Wild argue that one difficulty is convincing some law teachers to move away from the traditional forms of assessment that they are wedded to.⁶⁶ However, many law teachers do try to provide their students with a wider, more contextualised perspective, but they are often limited by practicalities. For example, some argue that the

⁶⁴ Ibid 491.

⁶⁵ Ibid 491.

⁶⁶ Berger and Wild (n 2) 431.

introduction of authentic learning and assessment opportunities is too resource intensive, in contrast with traditional forms of learning and assessment which provide a pragmatic solution to the general lack of time and resources in light of ever-growing class sizes.⁶⁷ In addition, as Curcio notes, academics have many different commitments on their time, and developing alternative teaching and assessment methods may adversely impact the time available for legal research and scholarship, which is still often the ‘coin of the realm’ in terms of career advancement.⁶⁸ Therefore, if authentic learning and assessment opportunities are to be introduced, there needs to be an institutional acknowledgment that doing so requires additional resources and support.⁶⁹

VI RECOMMENDATIONS

Securing buy-in from colleagues who may be reluctant to move away from traditional forms of learning and assessment to a curriculum that is more aligned with the needs of the legal sector is not an impossible task.⁷⁰ To promote buy-in, it should be emphasised that authentic learning and assessment is not incompatible with a liberal vision of legal education, which considers that the purpose of legal education is for students to ‘expand their knowledge, their engagement with the world around them, [and] the lifelong learning process...’.⁷¹ In actuality, the research demonstrates that introducing authentic learning and assessment tasks can promote deeper learning of substantive course material.⁷² As Hewitt states, engaging students with authentic activities that simulate legal practice is ‘likely to inspire their interest, enhance their perception of the relevance of the subject-matter, deepen their understanding of the principles learnt, and lead to a greater retention of that knowledge’.⁷³

Buy-in for authentic learning pedagogies can also be secured by highlighting that there are many ‘light touch’ ways to integrate authentic learning and assessment opportunities into substantive legal modules that do not involve a wholesale change.⁷⁴ For example, one of the fundamental skills of a lawyer is the ability to draft documents, and it would not be difficult to introduce a drafting exercise as part of a contract or property law module.⁷⁵ Similarly, legal letter writing could be introduced in a business or probate module, or students could be asked to conduct legal research using a practitioner database such as

⁶⁷ Ibid 435-436.

⁶⁸ Curcio (n 33) 904.

⁶⁹ Hart et al (n 23) 116.

⁷⁰ Berger and Wild (n 2) 431.

⁷¹ Hart (n 23) 110.

⁷² Veronica Villarroel et al, ‘Using Principles of Authentic Assessment to Redesign Written Examinations and Tests’ (2020) 57(1) *Innovations in Education and Teaching Journal* 38, 46.

⁷³ Anne Hewitt, ‘Producing Skilled Legal Graduates: Avoiding the Madness in a Situational Learning Methodology’ (2008) 17(1) *Griffith Law Review* 87, 89.

⁷⁴ Jones (n 20) 45.

⁷⁵ Ibid 45.

Practical Law as part of a seminar or assessment task.⁷⁶ Factual development is another key legal skill as, in practice, lawyers do not usually have all the information that they require at the outset, and they need to gather further information to fully analyse a legal problem.⁷⁷ As Curcio notes, factual development exercises could be introduced in almost all theoretical courses, with only minor changes to existing teaching and assessment.⁷⁸ For example, in a tort class, students could be asked to consider what questions they would need answered in order to determine whether a warning given to an injured visitor was sufficient to absolve an occupier from liability. It would be relatively easy for lecturers to design problem questions – which could be practised in class and assessed in an exam – whereby more facts were required to analyse the legal problem.⁷⁹ Including fact gathering skills in teaching and assessment would not be overly onerous, as it simply requires students to examine problems from a slightly different perspective and consider what facts they would need to fully analyse the problem and how they might go about finding those facts.⁸⁰ However, fact-finding skills are a key requirement to be an effective lawyer, and teaching undergraduate law students this skill would add authenticity to teaching and assessment exercises and help students understand that real legal problems are rarely neatly presented and usually require that additional information is obtained.⁸¹

VII CONCLUSIONS

There is increasing pressure from both students and the legal profession that legal studies are practical and useful, and this debate is even more significant considering the introduction of the SQE. Introducing authentic learning and assessment opportunities provides a method of teaching practical legal competencies on the undergraduate law degree. The existing research suggests that authentic learning and assessment can increase student employability⁸², engagement⁸³ and skills development⁸⁴.

Survey results from students enrolled in an optional undergraduate Civil Litigation and Dispute Resolution module that used authentic learning and assessment techniques supports the existing research, suggesting that authentic learning and assessment can increase student perceptions of their employability. In the survey, 97% of respondents said that participating in the module had enhanced their employability, and this was supported by qualitative data. In addition, the survey suggested that authentic learning and assessment tasks can increase

⁷⁶ Ibid 45.

⁷⁷ Curcio (n 33) 905.

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ Ibid.

⁸¹ Ibid.

⁸² Sotiriadou et al (n 4) 2134.

⁸³ Meyers and Nulty (n 6) 570.

⁸⁴ Sotiriadou et al (n 4) 2134.

student engagement and motivation, and 94% of survey respondents strongly agreed that working on authentic tasks had increased their engagement with the module. This was also supported by the students' open-ended feedback.

There are challenges to introducing authentic learning and assessment opportunities in higher education. The introduction of authentic tasks can take time and resources, and academics already have many different commitments on their time. This problem is not insurmountable, but there needs to be institutional support (both in terms of resources and credit) for the introduction of authentic learning and assessment opportunities. In addition, it is possible to create authentic learning and assessment 'moments' in existing courses – for example, the introduction of a drafting task in contract law, or a letter writing task in a business module. A 'light touch' approach to the introduction of authentic tasks would not be too onerous or require a wholesale change to existing teaching and assessment practices, which may help to secure buy-in from colleagues.