

EMBRACING DISRUPTION IN TEACHING LEGAL RESEARCH TO UNDERGRADUATE LAW STUDENTS

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ABSTRACT

Legal research is a fundamental skill that law students need to grasp from early on in their studies. Various internal and external disruptions can significantly impact the ways in which legal research is taught to first-year law students, resulting in the need for constant re-evaluation and curriculum redesign. This article evaluates the impact of three such disruptions — the loss of a dedicated Law Liaison Librarian position, a content restructure, and the move to online and hybrid teaching — and analyses how these disruptions prompted the development of a stronger legal research training program.

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I INTRODUCTION

The first semester of law school is incredibly challenging. Students need to simultaneously learn how to study law, understand and follow academic processes, acquire new terminology, and adjust to the tertiary study environment.¹ A first-year, first-semester topic must be carefully crafted to allow students to do all of this, while also gaining substantive knowledge and introductory practical skills, an exceedingly difficult task in such a crowded curriculum.² Legal research is an imperative and valuable component of the first semester of legal education,³ and is a ‘life-long skill’.⁴ When taught well, and carefully scaffolded with the teaching of legal analysis, law students are able to use their legal research skills to evaluate and respond to a legal question, understanding the interconnectedness of research and analysis skills as key to problem-solving.⁵ Legal research skills must therefore be taught alongside other key skills, allowing students to simultaneously grapple with legal research, reading primary and secondary sources, analysis, writing and referencing. While these processes are challenging, good learning is increased through repetition of difficult skills.⁶

Regardless of whether legal research is taught by academic staff or librarians,⁷ frontloaded or scaffolded throughout various topics,⁸ or even taught asynchronously online,⁹ various disruptions can wreak havoc on careful planning and thoughtful topic design. This article addresses the way in which legal research teaching can be disrupted, before concluding that

¹ Sally Kift, *Articulating a Transition Pedagogy to Scaffold and to Enhance the First Year Student Learning Experience in Australian Higher Education* (Final Report, Australian Law and Teaching Council Fellowship Program, August 2009), Appendix 1 <<https://transitionpedagogy.com.au/wp-content/uploads/2014/05/Kift-Sally-ALTC-Senior-Fellowship-Report-Sep-09.pdf>>.

² See, eg, Bobette Wolski, ‘Why, How, and What to Practise: Integrating Skills Teaching and Learning in the Undergraduate Law Curriculum’ (2002) 52(1–2) *Journal of Legal Education* 287, 291–2.

³ Even law students agree: Kay Tucker, ‘Collaborating on Teaching the RAW Materials for a Law Degree — Research and Writing’ (2008) 16(4) *Australian Law Librarian* 256, 257. In the United States: Tienielle Fordyce-Ruff, ‘Research across the Curriculum: Using Cognitive Science to Answer the Call for Better Legal Research Instruction’ (2020) 125(1) *Dickinson Law Review* 1. In the United Kingdom: David Hand and Matthew Terrell, ‘Bridging the Gap between University and Practice: Findings from a Study on Legal Research Education’ (2019) 19(3) *Journal of Information Management* 131.

⁴ Clare Cappa, *Good Practice Guide (Bachelor of Laws) Research Skills* (Australian Learning and Teaching Council, 2012) 2.

⁵ *Ibid* 2; Alyson M Drake, ‘Building on CREAC: Reimagining the Research Log as a Tool for Legal Analysis’ (2021) 52(1) *University of Memphis Law Review* 57; Caroline L Osborne, ‘The State of Legal Research Education: A Survey of First-Year Legal Research Programs, or “Why Johnny and Jane Cannot Research”’ (2016) 108(3) *Law Library Journal* 403, 407.

⁶ Jennifer M Cooper and Regan AR Gurung, ‘Smarter Law Study Habits: An Empirical Analysis of Law Learning Strategies and Relationship with Law GPA’ (2018) 62(2) *St Louis University Law Journal* 361, 369–70.

⁷ Dedicated Law Liaison Librarian staff are becoming rare in Australia, but not in the United States or United Kingdom: Gillian Hallam and Kim Kelly, ‘Law Librarianship — Legal Research: The Past, Present and Future of the Specialised Course Delivered by Queensland University of Technology’ (2016) 24(3) *Australian Law Librarian* 47; Paula Everett, ‘Engaging the Future with Legal Research Skills’ (2021) 29(4) *Australian Law Librarian* 298. Cf Association of Legal Writing Directors, *2008 Survey Results* (Legal Writing Institute, 2009) <[https://www.alwd.org/images/resources/2008%20Survey%20Report%20\(AY%202007-2008\).pdf](https://www.alwd.org/images/resources/2008%20Survey%20Report%20(AY%202007-2008).pdf)> cited by Tucker (n 3) 256; Hand and Terrell (n 3) 134.

⁸ Hand and Terrell (n 3) 134.

⁹ *Ibid* 135; Khelani Clay and Shannon Roddy, ‘Best Practices for Teaching Advanced Legal Research Asynchronously Online’ (2018) 62(1) *Law Librarian Lights* 15.

disruption itself is beneficial for the improvement of teaching programs and the building of staff and student skills. After this Introduction (Part I), Part II of the article examines the educational requirements for undergraduate law courses in Australia, and contextualises the placement of legal research within these requirements. Part III explores the way in which legal research is taught and assessed in a first-year, first-semester topic at Flinders University — ‘Essential Legal Skills’¹⁰ — to set the scene for the disruptions that challenged this approach. The article then evaluates three disruptions to teaching legal research and the resultant changes to the topic: the loss of a dedicated Law Liaison Librarian position (Part IV); a content restructure (Part V); and the move to online and hybrid teaching (Part VI). Part VII analyses the overall lessons from these disruptions, and the way in which these have shaped the 2022 version of the topic. Ultimately, the article emphasises the need for careful planning and frequent evaluation, particularly in first-year topics.¹¹ It also provides a tale of resilience: even though each disruption was initially perceived as negative and somewhat insurmountable, the disruptions enhanced the topic design and resulted in better legal research learning opportunities for students.

II REQUIREMENTS FOR TEACHING LEGAL RESEARCH

For admission to legal practice,¹² Australian law degrees require students to study legal knowledge, taught during undergraduate law studies (*Prescribed Areas of Academic Knowledge*),¹³ and practical legal training (*PLT Competency Standards*).¹⁴ Legal education is guided by the Threshold Learning Outcomes (‘TLOs’) for law, six areas outlining the minimum competency that graduates must achieve,¹⁵ each with its own good practice guide.¹⁶

There is no mention of ‘research’ or ‘legal research’ in the *Prescribed Areas of Academic Knowledge*, though it is implied that some research may need to be undertaken to properly understand each area. In the *PLT Competency Standards*, ‘research’ is mentioned as part of the Problem Solving Competency Standard.¹⁷ Here, as part of ‘analysing law’, graduates must have competently ‘researched ... questions of law properly, having regard to the circumstances’.¹⁸ This should be undertaken through the use of ‘law libraries, on-line searches, electronic data

¹⁰ Flinders University is in Adelaide, South Australia. The Law program is part of the College of Business, Government and Law.

¹¹ Kift (n 1) Appendix 2.

¹² Regulated by: *Legal Profession Act 2006* (ACT); *Legal Profession Uniform Law 2014* (NSW); *Legal Profession Act 2006* (NT); *Legal Profession Act 2007* (QLD); *Legal Practitioners 1981* (SA); *Legal Profession Act 2007* (Tas); *Legal Profession Uniform Law Application Act 2014* (Vic); *Legal Profession (Admission) Rules 2009* (WA).

¹³ Law Admissions Consultative Committee, *Prescribed Areas of Academic Knowledge* (Guidelines, December 2016).

¹⁴ Law Admissions Consultative Committee, *Practical Legal Training Competency Standards for Entry-Level Lawyers* (Guidelines, January 2015).

¹⁵ Sally Kift and Mark Israel, *Learning and Teaching Academic Standards Project: Bachelor of Laws, Learning and Teaching Academic Standards Statement* (Australian Learning and Teaching Council, December 2010) 9 <<https://cald.asn.au/wp-content/uploads/2017/11/KiftetalLTASStandardsStatement2010.pdf>>.

¹⁶ See, eg, Cappa (n 4).

¹⁷ Kift and Israel (n 15) [5.12].

¹⁸ *Ibid* [5.12](a).

bases, legal citators and digests'.¹⁹ By including this research component as part of 'analysing law', the *PLT Competency Standards* identify the link between legal research and legal analysis. However, it is the TLOs that cement this interconnection. Two TLOs are significant for legal research. TLO 4: Research Skills requires that graduates

are able to identify the need for research, select and use appropriate information sources, and determine their authority. These skills also include the ability to read, comprehend, and paraphrase a range of legal and non-legal documents; as well as legal referencing skills; an understanding of the requirements of academic integrity; and the ability to manage, organise, and retrieve information effectively.²⁰

This TLO essentially addresses standard legal research skills or 'text-based doctrinal research',²¹ ie, being able to find and organise information. These skills, however, are only the tip of the iceberg when it comes to legal research.²²

TLO 4 further requires graduates to 'find and use up-to-date primary and secondary legal sources in order to locate relevant material' and to 'evaluate' and 'synthesise factual, legal and policy issues'.²³ These additional elements shift the focus towards legal analysis by going beyond merely finding materials to understanding information that has already been found and identifying links between sources. This underscores the overlap between TLO 4 and TLO 3: Thinking Skills. The first two components of TLO 3 require graduates to

- a) Identify and articulate legal issues,
- b) Apply legal reasoning and research to generate appropriate responses to legal issues²⁴

These components require graduates to use legal reasoning to apply research findings to a legal issue.²⁵ Together, these two TLOs emphasise a process of searching for legal materials, evaluating the validity and value of these materials, reading and understanding the materials, analysing the materials with a specific goal in mind, and applying the principles drawn from the legal materials to a legal problem. To a seasoned legal researcher, the concept of research and analysis being connected does not warrant further explanation. However, to a first-semester law student, these concepts are not only foreign but completely disparate. Accordingly, the way in which students are introduced to legal research is critical.

¹⁹ Ibid [5.12](a) Explanatory Note.

²⁰ Ibid 19.

²¹ Cappa (n 4) 2.

²² See, generally, Cappa (n 4); Drake (n 5).

²³ Kift and Israel (n 15) 20.

²⁴ Ibid 17.

²⁵ Ibid 18.

III TEACHING LEGAL RESEARCH IN A FIRST-YEAR, FIRST-SEMESTER UNDERGRADUATE LAW TOPIC

Legal research can be taught by library or academic staff,²⁶ in embedded or standalone courses,²⁷ with the material frontloaded, integrated or online.²⁸ At Flinders Law, legal research instruction has always been a core focus of a compulsory first-year, first-semester topic currently called ‘Essential Legal Skills’.²⁹ Research is one of many skills taught in the topic, which includes reading and understanding legal sources, conducting legal problem-solving and analysis, legal writing, interviewing clients, and negotiating. In ‘Essential Legal Skills’, the learning outcomes relating to legal research are to:

- Introduce students to legal research skills, including selecting, locating, using and updating appropriate primary and secondary sources [TLO 4]
- Introduce students to legal problem solving and analysis skills and allow students to develop and refine these skills [TLO 3]³⁰

The legal research components of this topic have been taught in various ways since 2012, with changes prompted by both technological advances and the disruptions discussed in Parts IV–VI below. Between 2012 and 2017 the topic was called ‘Legal Research and Writing’ and had a consequent strong focus on legal research, analysis and writing.

A Delivery of Materials

In both ‘Essential Legal Skills’ and its precursor ‘Legal Research and Writing’, legal research has always been co-taught between academic staff and the Law Liaison Librarian, Heidi Savilla. This allowed stronger emphasis on research as a skill,³¹ enabling more immediate feedback,³² drawing on multiple types of legal research expertise, and engaging students through dialogue.³³ Co-teaching was a valuable component of this topic. Savilla was very well placed to deliver the material, and having a law degree enabled her to bring additional insights to curriculum design and teaching. She was able to prompt students through the process of

²⁶ See, eg, Cappa (n 4) 13; Tucker (n 3); Everett (n 7). For the American context, see Fordyce-Ruff (n 3).

²⁷ See, eg, Everett (n 7) 302–3.

²⁸ Hand and Terrell (n 3) 134: 46.6% of United Kingdom students prefer an integrated approach.

²⁹ Prior to 2018, the topic was called ‘Legal Research and Writing’.

³⁰ ‘Essential Legal Skills’, *Flinders University Handbook* (Web Page, 2022) <<https://handbook.flinders.edu.au/topics/2022/LLAW1312?year=2022>>.

³¹ Catherine Minett-Smith and Carole Davis, ‘Widening the Discourse on Team-Teaching in Higher Education’ (2020) 25(5) *Teaching in Higher Education* 579.

³² Erica Britt et al, ‘Why Collaborative Teaching? An Assessment of Merits and Methods’ (2013) 6(1) *Scholarship of Teaching* 20; Sally Kift et al (eds), *Excellence and Innovation in Legal Education* (LexisNexis Butterworths, 2011) 280–1; Phil Race and Ruth Pickford, *Making Teaching Work: ‘Teaching Smarter’ in Post-Compulsory Education* (SAGE, 2007) 119.

³³ Rachael Field and Barbara Kent, ‘Engaging First Year Students with an Effective Learning Environment: Combining Laurillard’s Conversational Framework and Active Learning with Blended Delivery’ (Conference Paper, Pacific Rim First Year in Higher Education Conference: Engaging Students, 12–14 July 2006).

searching-evaluating-reading-understanding-analysing-applying the law in a way that is not possible if the instructor does not have a law degree.

Savilla co-delivered three in-person, one-hour lectures with the Topic Coordinator ('TC'), explaining and demonstrating the process of legal research. Students attended three in-person, two-hour workshops, held in a computer lab in the library (to ensure equal access to computers by all students), where the tutor and Savilla would co-teach the relevant material. During the workshops, students were introduced to legal databases, exploring these by using a problem question to guide their research. Students learned how to plan a research strategy,³⁴ and how to record their research.³⁵ Workshops were part instructional and part interactive, allowing students to apply the skills they were learning.³⁶ Both online and physical resources were used, and students were taken on a tour of the law library.

B *Assessment*

Between 2012 and 2017, students' assessments took various forms, initially including submission of the library skills workbook (a booklet that students completed during workshops), a library skills quiz (requiring students to navigate the catalogue and locate physical resources), and a research assignment (described in detail below). Over time, the focus shifted to online resources, and the law library tour and the physical components of the quiz were removed. The one legal research assessment that has remained constant is an authentic, experiential research assignment.³⁷ This assignment presents students with a problem question addressing an unfamiliar area of law. Students are required to draft a research plan, log their research, reflect on the research process, read the sources they have found, and apply their findings to the provided scenario by writing a letter of advice to the client. These skills are all scaffolded throughout the topic.

C *Evaluation and Improvement*

In 2015, the TC and tutors, with Savilla's assistance, reformed the legal research component.³⁸ While the content remained similar, teaching was redesigned to better interconnect other components of the topic, placing greater emphasis on legal analysis, guided by a specific problem question, which students had already used as a basis to learn issue identification and application of case law to a fact scenario. The question was then used in legal research workshops, to teach students to find relevant secondary and primary sources. In this sense,

³⁴ Caroline L Osborne, 'The Legal Research Plan and the Research Log: An Examination of the Role of the Research Plan and Research Log in the Research Process' (2016) 35(3) *Legal Reference Services Quarterly* 179.

³⁵ Drake (n 5); Osborne, 'The Legal Research Plan' (n 34).

³⁶ Fillipa Marullo Anzalone, 'Some Musings on Teaching Legal Research' (2015) 20 *Legal Writing: The Journal of the Legal Writing Institute* 5, 6.

³⁷ Alyson M Drake, 'The Need for Experiential Legal Research Education' (2016) 108(4) *Law Library Journal* 511, 527–33.

³⁸ The author thanks Brendan Grigg, Senior Lecturer in Law at Flinders University, for his work and leadership in this redesign.

students were simultaneously researching (finding and updating sources) and analysing (evaluating and applying their findings to the scenario).

The original topic, ‘Legal Research and Writing’, has been frequently evaluated and improved. By 2017, the research component of the topic was very heavily interconnected with the other components of the topic and was working well. Although there were some challenges with student engagement, this was mediated through a detailed explanation of the importance of legal research, and the ways that students will use legal research skills in assessments, future studies and employment.³⁹ This was when the first of the three disruptions began to challenge the delivery of legal research teaching.

IV DISRUPTION 1: LOSS OF A DEDICATED LAW LIAISON LIBRARIAN POSITION

Libraries typically offer two key service delivery models to support learning and teaching: a subject-specific model that includes having dedicated liaison librarians in key subject areas who work directly with academic staff in that area; or a functional-based approach comprising a team of non-subject-specialists who, together, offer learning and teaching support.⁴⁰ Subject-specific liaison librarians have been fairly commonly used since the 1970s,⁴¹ and at Flinders University we have long had a dedicated Law Liaison Librarian in this role, who was fundamental to our teaching in the law degree. Globally, however, there has been a shift in the way library services are delivered. Functional-based models are more commonly adopted, particularly in the United Kingdom, America and Australia,⁴² for reasons including ‘ensuring consistency’, ‘[a]cquiring new expertise’, ‘improving efficiency and focus’ and ‘budgetary constraints’, amongst others.⁴³ While this change is often positively perceived, academic staff often voice serious concerns about a reduction in specialist knowledge and a decrease in quality.⁴⁴ After a university-wide restructure of professional services in 2017, the position of dedicated Law Liaison Librarian was replaced by a team of Learning and Teaching Librarians (‘Librarians’): strong researchers, but with no background in law – an emerging trend in Australia.⁴⁵ This was perceived as a significant loss given how instrumental Savilla was to the legal research program.

The removal of the Law Liaison Librarian position led to a significant change in the co-teaching aspects of ‘Essential Legal Skills’. At least two Librarians were present for each workshop. Although they had watched the previous year’s lectures and reviewed the materials, this did not adequately prepare them for being in the classroom. They added good insight about

³⁹ For stereotypes of legal research students, see Drake, ‘Building on CREAC’ (n 5).

⁴⁰ See, eg, Catherine Hoodless and Stephen Pinfield, ‘Subject vs Functional: Should Subject Librarians Be Replaced by Functional Specialists in Academic Libraries?’ (2018) 50(4) *Journal of Librarianship and Information Science* 345.

⁴¹ Irene Duskatsch, ‘From Flying Solo to Playing as a Team: Evolution of Academic Library Services Teams at the University of South Australia’ (2007) 28(8/9) *Library Management* 460, 460.

⁴² See, eg, Hoodless and Pinfield (n 40); Duskatsch (n 41).

⁴³ Hoodless and Pinfield (n 40) 349.

⁴⁴ Duskatsch (n 41) 464–5.

⁴⁵ See, eg, Hallam and Kelly (n 7) 48.

research techniques (eg, Boolean searching) and demonstrated the use of the databases in response to verbal instructions from the tutor but were not able to co-teach the materials. In part, this seemed due to a lack of confidence with law-specific materials (the Librarians were only one step ahead of the students) and a lack of familiarity with co-teaching. Tutors resultantly had an increased workload during workshops, simultaneously delivering the materials while instructing the Librarians about what to demonstrate on-screen, and ensuring students were following along. Previously this had been effortless, as Savilla had been involved in co-designing the materials and her legal background allowed her to fill in any gaps. Pausing to give detailed, clear instructions to the Librarians felt as though it was slowing down the class, while previous workshops with Savilla had felt more conversational. In hindsight, these clear and thorough instructions were useful for the students, particularly when teaching moved online (see Disruption 3 below).⁴⁶ However, including non-subject-specific librarians in the teaching of the topic meant that the previously clear links between research and analysis were weakened, as the Librarians did not have legal knowledge to draw on in assisting the lecturer to make these links. The emphasis in workshops was on finding materials, rather than on the intersection between planning, finding, evaluating, reading, analysing and applying. This meant that the true benefits of co-teaching and the hard work of redesigning the topic pre-2017 were lost.

Concurrent with these challenges arising, the Librarian team was redefining the process of teaching research skills, using learning theories, backwards design, threshold concepts and learning practices.⁴⁷ Savilla applied these theories to teaching legal research by developing materials that would help the non-legal-specialist Librarian team to understand legal research materials and processes, gain confidence, and be able to participate more fully as co-teachers in the workshops.⁴⁸ She drew on Meyer and Land's work on threshold concepts, which represent 'a transformed way of understanding, or interpreting, or viewing something without which the learner cannot progress'.⁴⁹ These must meet three criteria: 'transformative, troublesome, and irreversible',⁵⁰ that is, identify the key points in legal research at which the material clicks — the lightbulb moments after which the process becomes much easier. Savilla used Virginia Tucker's doctoral work to determine how the information environment, vocabulary and structures are drawn together to form these threshold concepts.⁵¹ Using her research into threshold concepts for legal research and the concept of 'decoding the

⁴⁶ Clay and Roddy (n 9) 16.

⁴⁷ Heidi Savilla, 'Teaching Legal Research: Using Past Practice and Present Confusion to Inform Future Learning' (Conference Paper, Australian Law Librarians Association Virtual Conference, 2001) <<https://vimeo.com/613256684>>.

⁴⁸ This course was specifically designed to acclimate current library staff to legal research: cf Hallam and Kelly (n 7) 49.

⁴⁹ Jan Meyer and Ray Land, *Threshold Concepts and Troublesome Knowledge: Linkages to Ways of Thinking and Practising within the Disciplines* (Enhancing Teaching-Learning Environments in Undergraduate Courses Project Occasional Report, May 2003) <<http://www.etl.tla.ed.ac.uk/docs/ETLreport4.pdf>> 1, cited by Savilla (n 47).

⁵⁰ Meyer and Land (n 49) 4–5.

⁵¹ Virginia Tucker, 'Acquiring Search Expertise: Learning Experiences and Threshold Concepts' (PhD Thesis, Queensland University of Technology, 2012) <https://eprints.qut.edu.au/63652/1/Virginia_Tucker_Thesis.pdf>, cited by Savilla (n 47).

disciplines’,⁵² Savilla reconceptualised the workbook used in ‘Essential Legal Skills’. The Librarians completed the workbook, using weekly debriefs to identify questions and challenges and to determine where the threshold concepts lie in legal research education.⁵³ From these discussions Savilla identified the most challenging parts of legal research — areas not previously recognised because of the teaching staff’s expertise in this area.

Savilla resultantly redeveloped materials for staff and students. The Librarians were given a more detailed version of the student workbook, which explained the differences between legal and non-legal sources and research processes, introducing legal principles and legal terminology.⁵⁴ Before co-teaching with academic staff, Librarians work through the materials across four weeks, with a weekly discussion and debrief. This also allows them to pre-empt questions that could arise in class. For students, Savilla created several diagrams to explain the process of legal research, which have become an integral part of ‘Essential Legal Skills’. For example, one diagram considers the documents that are created through the process of a court case — from the pleadings and transcript to unreported, reported and authorised judgments.⁵⁵ The second part of the diagram describes how case citators report this information. Other diagrams explain the process of legal research and the world of legal research, which are used to teach legal research planning, listing resources in the order in which they should be used and updated. This is a highly valuable resource and provides the basis for all research activities in ‘Essential Legal Skills’. This also serves as a valuable tool for students as they progress through their law studies, where they might rely more heavily on teacher-provided materials rather than utilising their legal research skills.⁵⁶

Ultimately, the loss of the Law Liaison Librarian position was felt to be a strong blow in terms of teaching but having our former Law Liaison Librarian involved in redeveloping the teaching and learning materials for law has resulted in highly beneficial resources and a stronger team of Librarians who are developing expertise in legal research. Savilla is still part of the team and is involved in workshops when possible. While not all the Librarians feel confident with co-teaching the workshops, they are encouraged to sit in and observe the co-teaching between Savilla and one of the academics, before taking an active role. This has allowed co-teaching — and the benefits that accompany it — to be reinstated in the topic. That said, one lingering concern is the high turnover of staff in the Librarian team and reclassification of various library staff members, though this problem can only be addressed at university level.

⁵² ‘Decoding the Disciplines’, *Indiana University Bloomington Center for Innovative Teaching and Learning* (Web Page) <<http://decodingthedisciplines.org>>, cited by Savilla (n 47).

⁵³ Savilla (n 47).

⁵⁴ Brooke J Bowman, ‘Researching across the Curriculum: The Road Must Continue beyond the First Year’ (2008) 61(3) *Oklahoma Law Review* 503, 532–6.

⁵⁵ See, at Monash Law School, Kay Tucker (n 3) 260.

⁵⁶ Lisa Smith and Kay Tucker, ‘Flexible Delivery of Advanced Legal Research: A Skills Unit for Later Year Undergraduate Law Students’ (2004) 12(3) *Australian Law Librarian* 35, 35.

V DISRUPTION 2: CONTENT RESTRUCTURE

In 2018, Flinders Law commenced a whole-of-degree curriculum refresh. This disruption was anticipated, which allowed time for more careful planning. Overall, this has been extremely positive, but did lead to challenges in redesigning the teaching of legal research skills in first-year topics. It is difficult to tell the exact impacts of this disruption, however, due to Disruption 3 occurring at the same time as the new curriculum commenced.

It was during the curriculum refresh that ‘Legal Research and Writing’ became ‘Essential Legal Skills’. This caused a shift in emphasis and content. The new content was heavily influenced by external reports about the profession,⁵⁷ including *The Future of Law and Innovation in the Legal Profession*,⁵⁸ and an internal audit of the skills that first-year students are expected to develop. Another, related, challenge was a restructuring of the teaching pattern, moving from a weekly, in-person, one-hour lecture and two-hour workshop to a weekly two-hour, in-person seminar, and a weekly one-hour task alternating between in-person tutorials and asynchronous online tasks. This would enable students to engage in greater interaction and group work during the seminars, reserving tutorials for six key topics (including two skills assessments), with online tasks used to formatively test students’ knowledge and facilitate reflection. This would also introduce online learning to students.

The legal research components of ‘Essential Legal Skills’ were restructured into three two-hour seminars. The research materials were dissected and scaffolded⁵⁹ across the entire semester to encourage learning through repetition.⁶⁰ To draw on as much expertise as possible, the content restructure was done by the TC, Savilla, and one of the Librarians with the most interest and confidence in teaching legal research. As a team, they dissected the teaching materials, lectures, workbook, workshop, and Savilla’s findings relating to threshold concepts and ‘decoding the disciplines’. For example, the materials about finding case law are now embedded into the week in which students learn how to read and analyse case law, likewise with legislation. Since the concepts had been scaffolded through previous weeks, the research seminars were devoted to teaching research skills themselves, paired with tasks from the previous workbook that students completed in groups. The skills quiz assessment was reintroduced, with questions about planning and conducting legal research, particularly examining which databases students would use to find particular resources.

While the changes to the content and teaching pattern were initially challenging, the curriculum refresh allowed the topic to be reconceptualised, which led to a design that, ultimately, could

⁵⁷ Kift and Israel (n 15); Australian Law Reform Commission, *Managing Justice: A Review of the Federal Civil Justice System* (ALRC Report No 89, 2000); Law Admissions Consultative Committee, *Prescribed Academic Areas* (n 13); Law Admissions Consultative Committee, *Practical Legal Training* (n 14).

⁵⁸ Law Society of New South Wales Commission of Inquiry, *The Future of Law and Innovation in the Profession* (Report, 2017); Richard Susskind, *Tomorrow’s Lawyers: An Introduction to Your Future* (Oxford University Press, 2013).

⁵⁹ Kift et al (n 32) 291–301.

⁶⁰ For excellent analysis of cognitive psychology and retrieval in learning legal research, see: Fordyce-Ruff (n 3) 36–42; Drake, ‘Building on CREAC’ (n 5) 70–6.

allow students more autonomy and flexibility, and better opportunities to engage in both in-person and online instruction. ‘Essential Legal Skills’ was taught for the first time in Semester 1, 2020, and within three weeks all in-person teaching moved online as a result of the pandemic. Consequently, the legal research components were not run as planned.

VI DISRUPTION 3: THE MOVE TO ONLINE AND HYBRID TEACHING

When the move to online learning was announced,⁶¹ the higher education sector was plunged into chaos. Although online learning had been a broad consideration within the education sector,⁶² in a course that was only accredited for face-to-face teaching this move appeared unfathomable and, indeed, required approval from accrediting bodies. Students and staff alike were juggling work/study from home, unpredictable casual incomes, and constantly changing pandemic-related rules. This does not even include the resultant mental health impacts on students who were also trying to study law for the first time.⁶³ Resultantly, the study pattern of ‘Essential Legal Skills’ was again changed: the two-hour weekly seminar became a one-hour pre-recorded lecture and one-hour of synchronous online class discussion, embracing flipped pedagogy.⁶⁴ Many students attended the synchronous class, communicating mainly through the chat. Online tutorials were more difficult. Originally intended to be highly interactive, the move online meant that students did not necessarily have working cameras/microphones or were unable or unwilling to use these.⁶⁵ The technology was clunky and unfamiliar, particularly screen sharing and breakout rooms.

All online teaching methods in ‘Essential Legal Skills’ were initially an unplanned reaction to moving the whole topic online overnight — none of the planned materials or teaching methods had been intended for a fully online delivery.⁶⁶ While students found the pre-recorded materials useful, it was disconcerting for tutors who were unable to glance over students’ shoulders to identify difficulties.⁶⁷ In the seminar, students were placed into breakout rooms to practice

⁶¹ In South Australia, this occurred on Monday 16 March 2020. See, eg, Daniel Keane, ‘Coronavirus Prompts Declaration of Public Health Emergency in South Australia’, *ABC News* (online, 15 March 2020) <<https://www.abc.net.au/news/2020-03-15/coronavirus-prompts-declaration-of-public-health-emergency-in-sa/12057684>>. See also Dean Faulkner, ‘Gatherings of More than 10 People Banned in SA under Stricter Coronavirus Social Distancing Rules’, *ABC News* (online, 28 March 2020) <<https://www.abc.net.au/news/2020-03-28/sa-bans-gatherings-of-10-people-under-strict-coronavirus-rules/12099366>>.

⁶² Australian Government Productivity Commission, *5 Year Productivity Inquiry: From Learning to Growth* (Interim Report, 5 September 2022) 2.3 <<https://www.pc.gov.au/inquiries/current/productivity/interim5-learning/productivity-interim5-learning.pdf>>.

⁶³ Transitioning to law study is difficult enough: Nicholas Corder, *Learning to Teach Adults: An Introduction* (Routledge, 2nd ed, 2008) 3–4.

⁶⁴ Drake, ‘The Need for Experiential Legal Research Education’ (n 37) 530–1.

⁶⁵ The Learning Management System does not allow backgrounds to be blurred or customised.

⁶⁶ Online teaching requires careful and considered preparation: Ken Swift, ‘Give It a Try, It’s Not So Bad: Utilizing Distance Learning in First-Year Legal Research and Writing Courses’ (2019) 32(2) *Second Draft* 30, 31.

⁶⁷ Hand and Terrell (n 3) 135.

research and receive peer feedback:⁶⁸ not one group shared their screen. Thankfully, Savilla attended the seminars, helping the TC give more attention to each group.

At this stage of the semester, students had been online for five weeks, and were overwhelmed by their study load, the global situation, and stay-at-home orders. They were doing minimal preparation, though typically still attending online classes. After some frank conversations with students, it became apparent that they did not understand how to study in this environment. As a result, the TC made a short video giving all LLBLP students tips about how to study when lacking motivation and focus.⁶⁹ Another student concern was the sheer number of low-tech videos across all topics, which did little to capture students' attention. In response, the TC changed the approach to legal research recordings — using one instructional lecture and an interview lecture based on conversational frameworks⁷⁰ in which they interviewed Savilla. Savilla was provided with several research questions used in past classes and talked through her approach while demonstrating the process on-screen. The TC loosely followed the 'decoding the disciplines' process, prompting Savilla to dissect the research process. This allowed the two experts to reinvigorate co-teaching and embed answers to questions asked in previous iterations of the topic. After viewing this interview, students were more willing to participate in the legal research seminars, and their research quiz grades were higher than expected.⁷¹ Similar recordings are now used for five skills in 'Essential Legal Skills'.

In 2021, hybrid teaching was introduced, with classes taught simultaneously in-person and online, and recorded. Given the 2020 challenges with connection issues and teaching taking longer, the teaching pattern was altered to weekly one-hour pre-recorded materials and a weekly one-hour workshop. This enabled the reintroduction of three dedicated workshops for legal research. The material remained scaffolded throughout the topic, to link research with analysis, and the pre-university restructure workbook was reintroduced, now separated into secondary sources, primary sources and research planning.

Teaching hybrid legal research classes provided a new layer of difficulty. Effectively, these were two different cohorts being taught simultaneously.⁷² It was hard to know which cohort to prioritise, and classes were plagued with connection difficulties and limited availability of technology in teaching rooms, while Covid-related density requirements minimised groupwork options. However, the in-person dynamic made it easier for the tutor to identify and assist students having difficulties. The same problems remained, though, in relation to not knowing how online students were faring. This was overcome, in part, by verbalising and recording an

⁶⁸ Jennifer Hurley, 'Legal Research Skills Development for Online Law Students: The Essential Ingredients' (2013) 21(4) *Australian Law Librarian* 236, 238.

⁶⁹ The video page was accessed 241 times between 9 April and 30 June 2020. If viewed by 241 individual students, this would represent 46% of the LLBLP cohort at that time.

⁷⁰ Field and Kent (n 33).

⁷¹ Of 88 students, 82 students completed the quiz. The median score was 8.4/10, the average was 8.3, and only seven students scored under 7/10.

⁷² For a literature review on hyflex (hybrid) teaching, see Michael Detyne et al, 'Hybrid Flexible (HyFlex) Teaching and Learning: Climbing the Mountain of Implementation Challenges for Synchronous Online and Face-to-Face Seminars during a Pandemic' [2022] *Learning Environments Research* <<https://doi.org/10.1007/s10984-022-09408-y>>.

answer to each question students asked. A second method of overcoming this was a collaboration between the TC and the Flinders Law Students' Association Vice President (Careers, Education and Wellbeing) in creating a co-curricular Skills Seminar for law students to learn and further develop their research skills.⁷³ This prompted videos from 'Essential Legal Skills' to be duplicated online for students to revisit as required.

Unlike the loss of the Law Liaison Librarian position and the content restructure, the move to online and hybrid teaching — and the swift way it occurred — was unpredictable. Thoughtful curriculum design was abandoned, and everything moved online without careful planning. However, the biggest challenge was the unknown. Now, after a year of teaching online (in 2020) and another year of teaching in hybrid mode (2021), it has become easier to learn from these challenges and plan for future iterations of the topic.

VII APPLYING THE LESSONS FROM DISRUPTION IN 2022

In preparing for teaching in 2022, the impacts of all three disruptions were still present. Despite this, each disruption has caused deep reflection into the way 'Essential Legal Skills' is structured and taught, resulting in a stronger topic and better legal research education. One of the most important parts of teaching is evaluation, particularly in first-year topics.⁷⁴ A critical and honest evaluation of teaching activities, how the materials were received, and how these skills were showcased in students' assessments is fundamental and transformative, allowing improvements to be made for the next cohort. Over the past few years, with the impacts of the pandemic, it has been more difficult to evaluate topics. For example, poor engagement or low marks may be attributable either to the students' work-life-health balance or to the topic itself. In addition, the move to online teaching has changed tertiary education forever: now, most materials are either pre-recorded or live-streamed, and both synchronous and asynchronous technology have a much larger role than ever predicted.

The three disruptions evaluated in this article resulted in three key lessons. First, it is important to have staff (academic *and* non-academic) with legal research expertise involved in both planning and teaching.⁷⁵ However, that expertise can be shaped in various ways, and including staff who are new to the components of legal research can create valuable learning for students and academic staff alike. Second, scaffolding legal research materials throughout the topic, leading to several weeks of specific legal research teaching and culminating in an assessment that allows students to demonstrate their legal research skills, heavily emphasises the integrated methodology of searching-evaluating-reading-understanding-analysing-applying. The links between research and analysis now heavily underpin the entire topic, and this has become one of its main strengths.

The first two disruptions addressed in this article have led to the most significant areas for growth in the topic. The move to online learning, however, has been the biggest disruption and

⁷³ For a similar approach at Adelaide Law School, see Everett (n 7) 303.

⁷⁴ Kift (n 1).

⁷⁵ Cappa (n 4) 13.

presents the third key lesson. Hybrid learning is here to stay, with a university requirement to have an online option in every topic. As a result, there has been one more change to the teaching pattern in ‘Essential Legal Skills’, and a reconsideration of how legal research content is delivered. The one-hour of pre-recorded videos remains the same, though these have been separated into shorter videos that are more easily watched. Students must watch these before attending workshops, while simultaneously working through certain parts of the workbook, creating a guided exercise.⁷⁶ This guided preparation commences the process of research and reflection, meaning that the workshops — now two hours — can focus on debriefing and providing feedback on the aspects of research that students identify as the most difficult. The second part of each workshop has become much more experiential,⁷⁷ with students applying their legal research skills to new areas. The Librarians assist with workshops: answering questions, demonstrating research processes and troubleshooting with students. There are usually two Librarians (typically including Savilla) and the tutor on hand to help the students, meaning that if one facilitator is struggling with a particular database or legal principle, another can assist. These struggles are turned into teachable moments to ensure students understand the difficulty and how to overcome this. For example, AGIS underwent an upgrade in the last year, first noticed during a workshop. This caused initial panic for facilitators, who then used this moment to show students that sometimes databases will look different, but that there are key aspects of each database that can be identified, helping students to learn to troubleshoot on their own.⁷⁸

VIII CONCLUSIONS

Ultimately, teaching is a journey of constant evaluation and change. While this is most commonly motivated by new research into teaching methods or changes to primary sources, this article demonstrates that various internal and external disruptions can heavily influence both curriculum design and teaching delivery. Designing a first-year, first-semester law topic has specific challenges, particularly balancing transition pedagogy with content, skills and processes that students are required to know before they progress to more legally complex topics. Legal research education is particularly difficult to plan, as it requires careful scaffolding of legal analysis with legal research processes, intersecting TLOs 3 and 4. While disruptions have large, often uncontrollable impacts, embracing disruption and the resultant uncertainty can lead to better curriculum design. Without the three disruptions examined in this article, ‘Essential Legal Skills’ would not be as strong. The opportunity to try different teaching methods, and to reflect on what was — and was not — working for students, too, has strengthened the legal research components of this topic. Given the uncertainty of the global situation, and how quickly technology is changing, there is no doubt that further disruptions will occur. Regardless, this journey of resilience had provided a framework and created a

⁷⁶ See, eg, Swift (n 66) 31–2.

⁷⁷ See, eg, Drake, ‘The Need for Experiential Legal Research Education’ (n 37) 520–2.

⁷⁸ Fordyce-Ruff (n 3) 19; Anzalone (n 36) 7.

culture of reflection and evaluation — at least in ‘Essential Legal Skills’ — that will serve as a solid foundation for the future.