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To cite this article: Rachel Cahill-O'Callaghan, Natasha Hammond-Browning & Lee Price (2025) Reassessing land law: introducing greater authenticity to undergraduate assessment and the challenges of innovation, *The Law Teacher*, 59:3, 340-363, DOI: [10.1080/03069400.2025.2541998](https://doi.org/10.1080/03069400.2025.2541998)

To link to this article: <https://doi.org/10.1080/03069400.2025.2541998>



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Published online: 16 Oct 2025.



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Reassessing land law: introducing greater authenticity to undergraduate assessment and the challenges of innovation

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ABSTRACT

This article explores the transformation of the assessment strategy in the LLB (Hons) Land Law module at Cardiff University during the 2022–23 academic year. The changes in strategy were set in the context of a number of factors familiar to many higher education institutions in the UK and beyond, including increased student numbers, the effects of Covid-19, institutional pressure for greater diversity in forms of assessment and developing the “employability” skills of students. These factors also coincided with the discontinuation of the qualifying law degree (QLD) for prospective solicitors and its replacement with the Solicitors Qualifying Examination (SQE). Grounded in the pedagogy of authentic assessment, two new forms of assessment were introduced: (1) a problem-based multiple-choice test (MCT); and (2) a written assessment set in the context of a mock “village”. The module’s learning activities and outcomes were altered to achieve constructive alignment and to create a dynamic, structured, skills-based, “authentic” learning experience for the students. The article sets out the literature on the pedagogy of authentic assessment and the application of the theory to develop the module’s assessment strategy. It highlights the alignment with developments in wider legal education and identifies the logistical and pedagogical challenges encountered during the transition.

ARTICLE HISTORY Received 27 June 2025; Accepted 8 July 2025

KEYWORDS Authentic assessment; innovation; land law: multiple-choice tests: open book online exam; challenges; course design

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1. Introduction: land law at Cardiff University

Land law is a compulsory module reflecting its status as one of the core subjects which comprised a qualifying law degree (QLD). It also forms part of the Functioning Legal Knowledge (FLK) for part 1 of the Solicitors Qualifying Examination (SQE) and it remains a foundation subject for the purpose of the Bar Standards Board (BSB) requirements for the academic stage of training. As at many higher education (HE) institutions, it is taught and assessed as a Level 5 module in Year 2 of the degree programme.¹ As with many HE institutions in the UK and beyond, the landscape has changed significantly post-Covid.

Prior to Covid, land law was delivered using a traditional format of teaching: large group lectures and highly structured small group tutorials of one hour each. Each tutorial focused on a single topic of the syllabus. The module was assessed in a single, written, high-stakes, three-hour examination which combined essay and short problem questions. The examinations were closed book and undertaken in-person. Each question focused on a single topic, and the exam contained a question on each topic of the syllabus. We refer to this as the “traditional” approach. The limitations of the traditional approach were increasingly apparent, as the student cohort became more “exam focused” and students could, in theory, focus on topics such as covenants, mortgages and easements, while neglecting other aspects of the syllabus. Indeed, it had become commonplace for students to not attend the lectures on areas of law that they were not going to learn for the exam or topics seen to be difficult.

Several significant changes have occurred in the HE context post-Covid. Many institutions, including Cardiff University, have moved towards and increased online exams. Student numbers have remained high for many institutions,² often with cohort sizes between 450 and 600 students. This change in student numbers and the move away from in-person exams offers the opportunity to revisit assessment and teaching.

These changes also occurred in the setting of other changes to professional qualification. The combination of the changing context of HE and professional qualification provided the catalyst to move from our traditional approach and to start exploring a method of teaching and assessment that more effectively reflected practical experience and offered an opportunity to prepare students for the employment context.³

¹The FHEQ has five framework levels – three of which are undergraduate and two are postgraduate. The levels of the FHEQ are numbered 4–8 . . . : QAA, “The Frameworks for Higher Education Qualifications of UK Degrees” (2nd edn, February 2024) para 3.4.

²Lucy Van Essen-Fishman, “The Impact of the COVID-19 Pandemic on 2021/22 Student Data” (HESA, 19 January 2023) <www.hesa.ac.uk/insight/19-01-2023/impact-covid-19-2022-student-data> accessed 23 June 2024.

³There is a sector-wide employability agenda which reflects many of the metrics used to assess HEIs. It is important to note that whether this should be a facet of the undergraduate academic teacher’s role is contested.

2. The limits of traditional assessment

Traditional assessment of land law and many core modules has typically centred on textbook compartmentalised topics. Arguably, this compartmentalised approach of traditional assessment simply evaluates learning,⁴ and often prioritises knowledge over understanding. Although there was some requirement for students to demonstrate application skills when selecting problem questions, this was very limited by the nature of the traditional short problem question. This compartmentalised approach, and the students' approach to the assessment, had the potential to result in exam-focused students who may not be in possession of the detailed, broad-ranging knowledge required for holistic understanding, or necessarily be prepared for resolving issues in a more realistic context. Like many core modules, land law is a highly integrated subject and issues that arise do not sit neatly in the compartmentalised topics that we traditionally assessed.

The traditional approach may also prioritise the theoretical over the practical and may overlook the skills needed by students in their wider legal education, such as the ability to identify and analyse relevant issues and resolve problems in a more integrated and realistic way. As Berger and Wild suggest, this form of assessment may be a poor way to develop key legal skills such as critical analysis and problem solving:

A traditional paper-based assessment simply is not compatible with the objective of developing creative, flexible, problem-solving students, as "measurement" approaches tend to dominate, which are in turn "clearly unsuited to 'fuzzy' or complex competences".⁵

This approach is also criticised by Whittam,⁶ citing Maharg:

[...] most UK law schools use a traditional "one-shot" unseen examination as a core method of assessment. 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 ...".⁷

The popularity of the traditional approach is unsurprising given its long history in legal education.⁸ It may also be a consequence of the established approach of dividing legal education into the often-called academic stage of

⁴Dianne Thurab-Nkhosi, Gwendoline Williams and Maria Mason-Roberts, "Achieving Confidence in Competencies through Authentic Assessment" (2018) 37 *Journal of Management Development* 652.

⁵Dan 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 *The Law Teacher* 428, 429.

⁶Sadie Whittam, "Keep It Real: The Case for Introducing Authentic Tasks in a UK Undergraduate Law Degree" (2023) 33 *Legal Education Review* 127, 129.

⁷Paul Maharg, "The Culture of Mnemosyne: Open-book Assessment and the Theory and Practice of Legal Education" (1999) 6 *International Journal of the Legal Profession* 219, 222.

⁸This may represent a form of "folk pedagogy": Jerome Bruner, *The Culture of Education* (1st edn, Harvard University Press 1996) 44.

qualification – with a textbook focus – and vocational stage of qualification – with practical, practitioner-facing skills often the preserve of the latter.⁹ However, land law, like most core subjects, is a highly integrated subject and in practice requires both theoretical and practical skills. The traditional approach does not typically recognise the complexity of the subject in practice and, as such, the traditional compartmentalised assessment is inauthentic.¹⁰ This was recognised in the early stages of the development of the SQE which sought to remove the division between theoretical and practical skills for solicitors.¹¹ This practical turn in the SQE may, for many institutions, lift the plug on the “stultifying effect on innovations in undergraduate legal education” encouraging practical skills-facing innovation.¹²

We questioned how effective and how relevant our traditional assessment remained in the face of a rapidly changing higher education sector and professional qualification landscape. In summary, there are several reasons for change: the shift towards online assessments exposed how poorly the traditional approach translated to open book, online exams;¹³ the recognition, in a modern university setting, of the need to support students to develop practice and practical skills, including those that are transferable to the employment context; the incentive, through the SQE, to recognise that land law and other core module subjects can no longer be taught in a disaggregated manner and that assessment should reflect this.

Our key ambitions were to:

- move away from knowledge checking and assessments simply as an evaluation tool, moving to form/s of assessment that would facilitate deeper understanding.¹⁴ This required developing assessment(s) that students would view as having practical value beyond passing the module; and
- embed skills into the module. We recognised that assessment remains a key driver of student learning; as such, to engage students in skills learning, the skills must be an element of the assessment.

⁹Dawn Jones, “Legal Skills and the SQE: Confronting the Challenge Head On” (2019) 53 *The Law Teacher* 35, 37.

¹⁰It is recognised that many institutions identified the artificiality of the division between academic and vocational education and sought to introduce skills into their undergraduate degree.

¹¹Solicitors Regulation Authority, “Admission to the Roll of Solicitors” (SRA) <<https://sqa.sra.org.uk/admission>> accessed 27 June 2024. In addition to passing the SQE, in order to be admitted to the Roll of Solicitors, candidates must have a degree (not necessarily in law) “or equivalent qualification or experience (such as a solicitor apprenticeship)”.

¹²David Rigg, “Embedding Employability in Assessment: Searching for the Balance between Academic Learning and Skills Development in Law: A Case Study” (2013) 47 *The Law Teacher* 404, 409.

¹³Daniel Bansal, “Open Book Examinations: Modifying Pedagogical Practices for Effective Teaching and Learning” (2022) 56 *The Law Teacher* 354.

¹⁴Thurab-Nkhosi, Williams and Mason-Roberts (n 4) 653–654.

Ultimately, we fulfilled these ambitions by introducing two new assessments in the form of, first, a problem-based MCT and, second, a written assessment set in the context of a fictional village located in the vicinity of Cardiff. The same village was used to facilitate small group teaching sessions. Both assessments implemented principles of authentic assessment. We set out how these assessments were implemented in [section 6](#), below.

3. Turning towards greater authenticity in assessment

There has been a significant amount of academic work on authentic assessment which suggested that implementing greater “authenticity” in assessment may achieve our ambitions. Torrance defined authentic assessment as a:

... generic term ... to describe a range of new approaches to assessment. The basic implication of the term seems to be that the assessment tasks designed for the students should be more practical and realistic and challenging than what one might call “traditional” paper and pencil tests.¹⁵

Although McArthur notes that authentic assessment risks becoming simply an educational “buzzword”,¹⁶ overall, our review of the pedagogy suggests that authentic assessment seeks to shift the focus to the practical, preparing students to perform real-world tasks by placing them in situations which are more reflective of real life. Herrington and Herrington¹⁷ identified key characteristics of authentic assessment, which include: fidelity to context to reflect the conditions under which the performance will occur; students are required to be effective performers with acquired knowledge to craft polished performances – this may require time and effort in collaboration; the activity must be authentic, complex, require judgement and it must assess multiple indicators of learning.

In legal education, authentic assessment has been used to move away from knowledge recall to developing skills.¹⁸ Using more realistic assessments, similar to those found in the “real world”, or legal practice, encourages students to acknowledge the complexity of the subject, and affords the opportunity to create a learning environment that supports collaboration and knowledge sharing.¹⁹

¹⁵Harry Torrance (ed), *Evaluating Authentic Assessment: Problems and Possibilities in New Approaches to Assessment* (Open University Press 1995) 1.

¹⁶Jan McArthur, “Rethinking Authentic Assessment: Work, Well-Being, and Society” (2023) 85 *Higher Education* 85, 86.

¹⁷Jan Herrington and Anthony Herrington, “Authentic Assessment and Multimedia: How University Students Respond to a Model of Authentic Assessment” (1998) 17 *Higher Education Research & Development* 305.

¹⁸Berger and Wild (n 5) 428.

¹⁹We are aware that there are several institutions that do this through a degree programme grounded in problem-based learning, but in this article, we are looking at a single module change rather than a programme change.

In professional legal education, such as that delivered as part of the Legal Practice Course (formerly the vocational stage of training for solicitors²⁰), authenticity is achieved by mirroring the competencies required for qualification and professional practice – for example, undertaking a simulated conveyancing transaction and assessing drafting skills in the context of transactional documentation. Stickley²¹ and Whittam note there is “increasing expectation” that law degrees “equip students with the key skills that they will need to practise in the profession”²² with employability being a key driver. Our focus was on *greater* realism and practicality in comparison to our traditional assessment.

It was not our aim to teach or assess the practitioner skills typically associated with the vocational stage of legal education. Such an approach may exceed what is feasible for a Level 5 undergraduate module and may require an overall programmatic curriculum review, rather than being implemented in a single compulsory module. Additionally, the LLB is to provide students with the academic stage of training, so the purpose was not to provide assessments that align solely with practitioner skills. We also recognise that many students will not go into legal practice. Instead, as Jones states, “There are many opportunities to introduce skills into teaching and assessment and this can be done in a ‘light touch’ way so as not to distract from the academic content”.²³ Indeed, this was the approach that we adopted in order to develop transferable skills that are applicable to many different careers. We continued to deliver the same academic content and focused on delivering small group teaching and assessment in a more challenging, practical and tangible context. In doing so, we supported students to build upon the problem-solving skills acquired at Level 4, and to adapt them to more realistic scenarios as part of their “journey from year one undergraduate study to [possible] legal professional”.²⁴

Some students, particularly those who may not wish to go on to be professional lawyers, may not “buy in” to such an approach. McArthur argues that the focus for justifying authentic assessment should be on its social value, rather than upon “either the so-called real world, or the world of work”,²⁵ which she argues some academics refer to in a conflating manner.²⁶ McArthur argues “that we move from simply focusing on the authentic task to considering why that task matters? This then enables a shift from the student in isolation to the

²⁰The Legal Practice Course is gradually being phased out by the Solicitors Regulation Authority, in favour of the SQE. After 2032, it will no longer be possible to qualify as a solicitor through the LPC route.

²¹Amanda Stickley, “Providing a Law Degree for the ‘Real World’: Perspective of an Australian Law School” (2011) 45 *The Law Teacher* 63, 74.

²²Whittam (n 6) 128.

²³Jones (n 9) 45.

²⁴Carol Boothby and Cath Sylvester, “Getting the Fish to See the Water: An Investigation into Students’ Perceptions of Learning Writing Skills in Academic Modules and in a Final Year Real Client Legal Clinic Module” (2017) 51 *The Law Teacher* 123, 124.

²⁵McArthur (n 16) 85.

²⁶McArthur (n 16) 90.

student as a member of society”.²⁷ This is a theme which we sought to address through the written assessment in the context of a mock village (below).

While recognising the limitations of definition and delineation of authentic assessment – and the boundaries of undergraduate law teaching – we sought to develop a more authentic assessment of land law, which reflected in part the complexity of land law in practice, required judgement, assessed multiple indicators of learning, offered an opportunity to academically challenge our students to develop critical thinking skills and moved away from the traditional knowledge recall to knowledge application.

The arrival of the SQE created another challenge and an opportunity to draw upon, with a focus on the skills required for the SQE, while maintaining the key skills of application and critical thinking central to authentic assessment.

4. The SQE: an incentive for innovation and authenticity?

The new legal qualification requirement for solicitors, the SQE, could be seen as an alternative practical context for authentic undergraduate assessment, albeit undertaken a step before entry to the profession.

4.1. SQE: background

Under a phased approach, which commenced in 2021, it will eventually become mandatory to pass the SQE to qualify as a solicitor in England and Wales. All assessments are centralised and supersede both the academic and vocational stages of education. Part 1 of the SQE (SQE1) is assessed through problem-based single best answer multiple choice questions in two examinations which, together, assess 13 subjects of “Functioning Legal Knowledge” (FLK).²⁸ SQE2 assesses practical legal skills. In SQE1, candidates are assessed across 360 questions; land law is one of the Functioning Legal Knowledge subjects.²⁹ Multiple-choice questions are also used by the Bar Standards Board (BSB) to assess the “centralised element” of the Bar Training Course.³⁰ Aside from those students still eligible to qualify as solicitors through the Legal Practice Course, which is

²⁷McArthur (n 16) 85.

²⁸Solicitors Regulation Authority, “Assessment Topics” (Solicitors Regulation Authority) <<https://sqa.sra.org.uk/about-sqe/what-is-the-sqe/assessment-topics>> accessed 23 June 2024.

²⁹Solicitors Regulation Authority, “SQE 1 Assessment Specification – Updated January 2024” (Solicitors Regulation Authority) <<https://sqa.sra.org.uk/exam-arrangements/assessment-information/sqe1-assessment-specification>> accessed 23 June 2024.

³⁰Bar Standards Board, “The Bar Qualification Manual” (Bar Standards Board 2024) <barstandardsboard.org.uk> accessed 23 June 2024.

expected to be phased out by 2026,³¹ all aspiring barristers and solicitors will have to undertake a substantial number of MCTs to qualify.

4.2. *SQE: the reaction of law schools*

Law schools in England and Wales reflected upon their teaching and assessment of students in light of the SQE. In 2016, Moorhead stated:

My assumption is that the defining of knowledge across 13 categories ... will broadly lead to two types of undergraduate legal education:

Group A – a selection of the Russell Group/Golden Triangle law schools that will seek to protect traditional approaches to legal education; and

Group B – the remainder that will, with greater or lesser willingness, be driven by competition for students to teach as many of the knowledge categories in the SQE as possible.³²

Writing further in 2018, Moorhead stated: “Law schools will [now] take MCTs more seriously as a, but not the, form of assessment. And that is a good thing insofar as law schools will benefit from a proper debate on assessment which looks at MCTs and other methods”.³³ Jones noted the challenge and dichotomy facing law schools who may wish to preserve a liberal arts law degree, and retain socio-legal writing, while also seeking to prepare students for the SQE.³⁴ This debate also took on a more granular form at a modular level;³⁵ Carroll noted that the University of Greenwich had already introduced MCTs in its land law module – partly to address marking burdens and partly to encourage students to think about land law differently³⁶ while acknowledging the difficulty of writing MCTs which challenge more able students. These factors demonstrate issues which must be considered in any innovation of assessment methods: what assessment methods students may desire and why they desire them, how

³¹ LawCareers.Net, “Time Limits on the Validity of the Law Degree, PGDL, LPC, SQE and Bar Course” (*LawCareers.Net*, updated 31 October 2023) <<https://www.lawcareers.net/Explore/Oracle/04022025-Time-limits-on-the-validity-of-the-law-degree-GDL-LPC-SQE-and-BPTC#:~:text=Law%20degree%2FGDL%20if%20you%20want%20to%20become%20a%20solicitor&text=However%2C%20course%20providers%20may%20stop,preparation%20courses%20for%20more%20information>> accessed 23 June 2024.

Technically, individuals falling under the SRA’s transitional provisions have until 31 December 2032 to qualify under the LPC route, so long as providers continue to deliver the LPC: Solicitors Regulation Authority, “Becoming a Solicitor with the Legal Practice Course (Transitional Requirements)” <www.sra.org.uk/become-solicitor/legal-practice-course-route/becoming-solicitor-legal-practice-course-transitional-requirements/> accessed 23 September 2024.

³² Richard Moorhead, “My Response to the SRA’s Proposals for an SQE” (*Lawyer Watch*, 28 February 2016) <<https://lawyerwatch.wordpress.com/2016/02/28/my-response-to-the-sras-proposals-for-an-sqe/>> accessed 23 June 2024.

³³ Richard Moorhead, “SQE@legalcheek Conference Talk” (*Lawyer Watch*, 23 May 2018) <<https://lawyerwatch.wordpress.com/2018/05/23/sqe-legalcheek-conference-talk/>> accessed 23 June 2024.

³⁴ Jones (n 9) 36.

³⁵ Emily Carroll, “Reimagining the Teaching of Land Law” Cepler Working Paper Series Paper 03/2018, 3 <http://epapers.bham.ac.uk/3116/1/cepler_working_paper_3_2018.pdf> accessed 24 June 2024.

³⁶ Carroll (n 35) 5.

rigorous those assessment methods may be, and what forms of assessment module staff are logistically able to deliver. It must be recognised that promotion of the MCT, as the sole method of assessment by the SQE Part 1, is not without criticism. Indeed, Morrison argues that the focus on sole MCT assessment shifts the imperative away from the deep critical learning central to higher education.³⁷

The implementation of the SQE coincided with increasing numbers of first year higher education enrolments, with the Higher Education Statistics Agency (HESA) reporting an approximate increase of 10% between the 2019/20 and 2020/21 academic years.³⁸ The Agency's Common Aggregation Hierarchy Level 1 for Law showed an increase from 122,795 enrolments in 2019/20, to 142,330 in 2021/22.³⁹ These figures also reflect a trend of greater student enrolments onto Cardiff University's LLB course. Set in the context of the pressures upon high enrolment courses, Loepp notes that "Multiple-choice assessments, many argue, are logistically necessary".⁴⁰

4.3. *The SQE: land law at Cardiff*

Cardiff's programmatic response to the SQE was to encourage and support modules wishing to assess by MCT.⁴¹ Any MCTs were required to be undertaken using the Blackboard platform (an online virtual learning environment and learning management system), which provided the additional advantages of automated marking and negligible moderation. Clearly, MCTs can offer pragmatic advantages which may address some of the logistical difficulties in assessing large compulsory modules. They may also be used to help face the centralised professional assessments. However, we had to be satisfied that MCTs both were pedagogically justifiable as a form of assessment⁴² and would fit the key ambitions of our assessment strategy in land law.⁴³

³⁷Doug Morrison, "The SQE and Creativity: A Race to the Bottom?" (2018) 52 *The Law Teacher* 467.

³⁸Lucy Van Essen-Fishman, "The Impact of the COVID-19 Pandemic on 2021/22 Student Data" (HESA, 19 January 2023) <www.hesa.ac.uk/insight/19-01-2023/impact-covid-19-2022-student-data> accessed 23 June 2024.

³⁹Higher Education Statistics Agency, "Higher Education Student Statistics: UK, 2021/22 - Subjects studie" (HESA, 19 January 2023) <<https://www.hesa.ac.uk/news/19-01-2023/sb265-higher-education-student-statistics/subjects>> accessed 23 June 2024.

⁴⁰Eric Loepp "The Benefits of Higher-Order Multiple-Choice Tests" (Inside Higher Education, opinion, 22 June 2021) <www.insidehighered.com/advice/2021/06/23/rethinking-multiple-choice-tests-better-learning-assessment-opinion> accessed 25 June 2024.

⁴¹For a discussion of the programmatic approach taken to implementing MCTs at Cardiff University, including the pedagogic rationale and approach to assessment design, see Rebecca Crump, Maria Keyse and Lee Price, "Setting the Standard: Using Multiple Choice Tests to Enhance Feedback and Reliably Evaluate Student Performance" in Stuart Norton and Vic Stephenson (eds), *Enhancing Assessment and Feedback: A Case Study Compendium* (Advance HE 2024) 71–77 <www.advance-he.ac.uk/news-and-views/assessment-and-feedback-case-study-collection-2024> accessed 15 October 2024.

⁴²For further discussion of this issue, see Crump, Keyse and Price (n 41).

⁴³Since 2019, land law had provided optional, formative, MCTs through Blackboard to help support students. High completion rates were noted during the revision period, and the MCTs were continued as a form of asynchronous learning during Covid.

To achieve authentic assessment in this context, our assessment required that it had sufficient fidelity to the conditions in which performance would occur – in this context the SQE setting: it must be sufficiently complex to require judgement and assess multiple indicators of learning, while ensuring that key context-facing skills and critical analysis skills are developed and assessed.⁴⁴ As such, even in the context of MCTs, the assessment must move away from purely recall of knowledge. We were satisfied that assessing by a proportion of problem-based MCTs could satisfy these requirements. SQE1 MCTs are designed to require candidates to: “apply [...] fundamental legal principles and rules appropriately and effectively [...] to realistic client-based [...] problems and situations”,⁴⁵ ie assessment in the context of making real-world judgements. As such, a MCT in the context of SQE/problem-based questions should adhere to many of the characteristics of authentic assessment. We did not aim to provide a preparation course for the professional examinations. However, by adopting a problem-based approach, assessed under tight time conditions, we could nevertheless aim to provide a reliable introduction to the form of assessment our students would undertake if qualifying as legal professionals – our assessment would more authentically represent centralised assessments. Law undergraduates, becoming ever more aware of the SQE, may recognise MCTs as relevant. As Whittam notes, student “buy-in” may be achieved “through explicit demonstration of career alignment and relevance of curriculum activities”.⁴⁶

The review of the literature highlighted that an effective, rigorous, problem-based approach can result in pedagogically legitimate summative MCTs. This informed the school’s overall programme policy on MCTs.⁴⁷ There has been resistance to using MCTs to assess undergraduate law students in England and Wales,⁴⁸ including concerns regarding whether they can adequately assess higher order learning, particularly when compared to the more intellectually challenging essay question.⁴⁹ The literature indicates that MCTs can be used to reliably assess higher order learning on Bloom’s taxonomical scale – albeit not at the creation level – provided questions are appropriately designed.⁵⁰ For the MCT, SQE-facing assessment, such question design was essential to achieve the potential learning outcomes of authentic assessment. Appropriate design

⁴⁴Herrington and Herrington (n 17).

⁴⁵Solicitors Regulation Authority, “SQE1 Assessment Specification: Updated January 2024” (SRA, January 2024) <<https://sqa.sra.org.uk/exam-arrangements/assessment-information/sqe1-assessment-specification>> accessed 25 June 2024.

⁴⁶Whittam (n 6) 127.

⁴⁷For further discussion of this issue, see Crump, Keyse and Price (n 41).

⁴⁸Sean Whittaker and Tarik Olcay, “Multiple-Choice Questionnaire Assessments: Do They Have a Role in Assessing Law Students?” (2022) 56 *The Law Teacher* 335.

⁴⁹Susan M Case and Beth E Donahue, “Developing High-Quality Multiple-Choice Questions for Assessment in Legal Education” (2008) 58 *J Legal Educ* 372.

⁵⁰Crump, Keyse and Price (n 41); SBA tests, in particular, have been identified as an accurate means of assessing “decision making, data interpretation and problem solving”: The Bridge Group, “SQE: Monitoring and Maximising Diversity” (The Bridge Group July 2020) 9 <<https://www.sra.org.uk/sra/research-publications/sqe-monitoring-and-maximising-diversity/>> accessed 4 September 2025.

requires questions which go beyond mere recall, testing students' ability to analyse, synthesise and apply legal concepts; this requires questions to contain a realistic problem to be solved, known as a "stem".⁵¹ Fry, Crewe and Wakeford have demonstrated how this problem-based approach can be used to test the core legal subjects of the QLD.⁵² In reviewing the SQE, Maughan concluded that "on balance [...] we conclude that the [SQE1, Functioning Legal Knowledge Assessments] are equivalent to level 6 in the [Frameworks for Higher Education Qualifications of UK degree-awarding bodies]",⁵³ suggesting that SQE-style problem-based questions may be appropriate in undergraduate assessment, although not as the sole method of assessment.

We therefore identified this problem-based approach as crucial in developing MCTs, as a part of our authentic assessment strategy, alongside the mock village.⁵⁴ Our aim was to test students' application of "fundamental legal principles to realistic fact patterns" rather than "esoteric topics [or] isolated facts [...]".⁵⁵ This included drawing upon the style of question encountered on SQE1 through the Solicitors Regulation Authority's sample Functioning Legal Knowledge questions.⁵⁶ By doing so, our assessments would become more relevant for students moving on to professional qualification post-graduation. Assessing by MCT would also provide the additional advantage of being able to test the land law syllabus more broadly than in our traditional assessment, thereby achieving a key aim of our strategy.

5. Diversifying the assessment and quality assurance

While MCTs can be an important tool of assessment, Loepp suggests that to be effective they should be used in conjunction with other forms of assessment.⁵⁷ Indeed, we recognise the limitations of a MCT as a sole form of undergraduate assessment. Even drawing on the authentic problem-based assessment design, a MCT assessment is not particularly adept at developing or assessing skills such as communication, argument, innovation and

⁵¹Case and Donahue (n 49) 377. Case and Donahue refer to this as a vignette.

⁵²Eileen Fry, Jenny Crewe and Richard Wakeford, "Using Multiple Choice Questions to Examine the Content of the Qualifying Law Degree Accurately and Reliably: The Experience of the Qualified Lawyers Transfer Scheme" (2013) 47 *The Law Teacher* 234.

⁵³Sarah Maughan, "Reviewing Levels and the Proposed Content Demands in the Solicitors Qualifying Examination" (Alphaplius Report, 20 April 2017) 9 <<https://www.sra.org.uk/globalassets/documents/sra/consultations/sqe2-alphaplius-report.pdf>> accessed 23 June 2024.

⁵⁴This also fed into the programme's overall approach to MCTs.

⁵⁵Eileen Fry and others, "The Qualified Lawyers Transfer Scheme: The Multiple Choice Test 2011–2021" (2023) 57 *The Law Teacher* 223, 224.

⁵⁶Solicitors Regulation Authority, "SQE1 Functioning Legal Knowledge Sample Questions" (SRA, 1 April 2024) <<https://sqa.sra.org.uk/exam-arrangements/assessment-information/sqe1-sample-questions>> accessed 25 June 2024.

⁵⁷Eric Loepp, "The Benefits of Higher-Order Multiple-Choice Tests" (Inside Higher Education, 22 June 2021) <www.insidehighered.com/advice/2021/06/23/rethinking-multiple-choice-tests-better-learn-ing-assessment-opinion> accessed 25 June 2024.

creativity.⁵⁸ As such, in the context of land law, we developed two strands of authentic assessment: the practice-facing mock village written assessment, and the SQE1-facing MCT.⁵⁹

This diversification also ensured that we could continue to support our students, through the mock village, to appreciate the relationship between land law and wider social and/or policy issues. Despite the flexibility that has been given to law schools from ending the QLD and academic stage for solicitors, they must still meet the requirements of the Quality Assurance Agency for Higher Education.⁶⁰ QAA's Subject Benchmark Statement for Law states:

Studying law at undergraduate level is an academic matter [...] It provides students with knowledge and understanding of key legal concepts and insights into the relationship between law, culture and society.⁶¹

This is not something which assessment through MCTs can adequately address or measure, particularly as they do not require students to communicate reasoning. With regard to the descriptors contained in the QAA's UK Quality Code,⁶² Bailey has made a similar criticism of MCTs.⁶³ He observed that to satisfy just Level 4 of the Code requires:

... "an ability to present, evaluate and interpret qualitative and quantitative data, in order to develop lines of argument and make sound judgements in accordance with basic theories and concepts of their subject(s) of study." I do not believe that that can be delivered solely by MCQs. Choosing between lines of argument developed by others is not developing them yourself.

We therefore chose to embrace MCTs as a component of a more diverse assessment strategy which developed students' problem-solving skills, tested them in a more realistic and practical context, and still allowed students to demonstrate their written communication skills, their creativity and their awareness of how social issues and land law interact. The MCT faced the

⁵⁸Imogen Moore and Lee Price, "Do Multiple Choice Tests Have a Role to Play in Academic Legal Education?" (*University of Bristol Law School Blog*, 3 May 2021) <<https://legalresearch.blogs.bris.ac.uk/2021/05/do-multiple-choice-tests-have-a-role-to-play-in-academic-legal-education/>> accessed 25 June 2024.

⁵⁹Eric Loepp, "The Benefits of Higher-Order Multiple-Choice Tests" (*Inside Higher Education*, 22 June 2021) <www.insidehighered.com/advice/2021/06/23/rethinking-multiple-choice-tests-better-learning-assessment-opinion> accessed 25 June 2024.

⁶⁰Quality Assurance Agency for Higher Education 3 <www.qaa.ac.uk/>.

⁶¹Quality Assurance Agency for Higher Education, "Subject Benchmark Statement: Law" 3 (QAA, 8 March 2023) <https://www.qaa.ac.uk/docs/qaa/sbs/sbs-law-23.pdf?sfvrsn=c271a881_6> accessed 28 June 2024.

⁶²Quality Assurance Agency for Higher Education, "UK Quality Code for Higher Education Frameworks for Higher Education Qualifications of UK Degree-Awarding Bodies" (2nd edn, QAA 21 February 2024) <<https://www.qaa.ac.uk/the-quality-code/qualifications-frameworks>> accessed 27 June 2024.

⁶³Stephen Bailey, "The Implications of the SQE for Legal Education" (Presentation to plenary session, Society of Legal Scholars, Durham, 1 September 2021), 3 <www.legalscholars.ac.uk/2021/09/28/the-implications-of-the-sqe-for-legal-education/> accessed 27 June 2024. Professor Bailey was referring to the first edition (2014).

development of new assessment methods in centralised professional examinations and our mock village assessment tested the skills of application, analysis and evaluation as a more authentic form of written assessment. These are all skills that are valuable to students intending to go into legal practice, as well as being transferable skills for those who will work in other areas. Increasing authenticity in both these realms enabled a more comprehensive approach to evaluating students' knowledge, skills and understanding.⁶⁴ Our learning activities and outcomes were amended to reflect this change in approach.⁶⁵

Programmatic requirements meant that the weighting of our respective assessments had to be either 50:50 or 75:25. For the 30-credit version of the module, a 50% weighting meant that the word count of the written assessment was limited to 1500 words. For the first year of the implementation, we decided to opt for an even weighting, but to keep the balance under review.

6. Putting theory into practice

6.1. MCT: 50% assessed at end of semester 1

By employing the pedagogy of the problem-based approach, we designed formative and summative MCTs which enabled students to develop and then demonstrate their ability to analyse problem scenarios and apply core principles to realistic situations. Assessing core principles at the end of semester 1 aimed to ensure that students had understood the substance of these areas, and developed their problem-solving skills, before commencing semester 2 and building towards the more complex scenarios demanded by the mock village assessment. The inaugural MCT was tested in January 2023. All semester 1 topics were tested, discouraging the “compartmentalised learning” associated with the traditional approach. The syllabus for semester 1 included the “building blocks” of land law: estates and interests, formalities and registration. Extensive formative opportunities with detailed feedback implemented principles of assessment *for learning*.⁶⁶ Activities were designed around formative questions in workshops and online using Blackboard. These facilitated

⁶⁴Pauline Collins and others, “The Real Deal: Using Authentic Assessment to Promote Student Engagement in the First and Second Years of a Regional Law Program” (2011) 21 *Legal Education Review* 97.

⁶⁵The overall outcomes were to:

- A. Accurately identify, describe and explain the main principles, values and rules that operate in land law of England and Wales with reference to relevant case law, legislation and policy.
- B. Demonstrate the ability to apply knowledge in order to provide arguable conclusions in problem-solving exercises (involving actual or hypothetical problems relating to land law).
- C. Demonstrate knowledge and understanding in depth and in context by explaining the relationship between substantive areas of land law, and between land law and wider social and/or policy issues.
- D. Analyse specific aspects of land law drawing on a range of different sources including case law, legislation, policy debate and academic journal articles.

⁶⁶Kay Sambell, Liz McDowell and Catherine Montgomery, *Assessment for Learning in Higher Education* (Routledge 2012).

discussion and/or feedback, involving analysis of the most appropriate option, and why the distractors were less appropriate. This took students beyond knowledge and application to analysis and helped achieve alignment between student learning and the summative assessment.

6.1.1. *Challenges with design*

The summative assessment for the 30-credit version of the module contained 20 questions, answered in 40 minutes. This was programmatically prescribed. Undergraduate degree classifications meant that 14 correct answers equated to first class honours. As such, the overall MCT needed to be designed so that students of varying abilities were tested appropriately. In short, the test could not be too straightforward, otherwise the MCT's legitimacy may be challenged by our LLB examining board. We therefore spent considerable time ensuring that the MCT contained questions of varying complexity, focusing upon an authentic, problem-based approach.⁶⁷

Cardiff's assessment criteria require "excellence" to achieve marks greater than 80% on written work. The mean mark on our traditional assessment was generally a low 2:1, with the majority of marks accumulating in the 2:1 and 2:2 classifications. We used a 2:1 mean mark as our comparator for the MCT. Students undertook the MCT remotely, online, through Blackboard; again, this was a requirement of the programme. Questions were presented to students randomly to deter collusion; 462 students were assessed. The test resulted in a mean mark of 62.8%, with a median of 60%. This was within the range of results of our traditional assessment in preceding years and approved by the examining board without concern.⁶⁸ Notwithstanding this attainment, it was decided to reduce the MCT component to 25% in 2023–24. This was partly due to wider departmental concerns with potential MCT associated grade inflation, but primarily to increase the weighting of the mock village assessment, which assessed material from both semesters.

Despite the success of the "authentic assessment MCTs" the changing landscape of HE has presented further challenges. Recent advances in artificial intelligence mean that, without recourse to adequate proctoring solutions, we can no longer conduct our MCTs remotely. Newton and Xiromeriti's study into the effectiveness of Open AI's ChatGPT in answering multiple-choice questions indicated that "All summative MCQ-based assessments should be conducted under secure conditions with restricted access [to AI]"⁶⁹ and concluded that ChatGPT "is a serious threat to the use of MCQ-based assessments".⁷⁰ AI has been shown to be 74% accurate on the SRA's

⁶⁷For further consideration of these issues, see Crump, Keyse and Price (n 40).

⁶⁸For further consideration of these issues, see Crump, Keyse and Price (n 41).

⁶⁹Philip Newton and Maira Xiromeriti, "ChatGPT performance on multiple choice question examinations in higher education. A pragmatic scoping review" (2024) 49 *Assessment & Evaluation in Higher Education* 781.

own published SQE1 sample questions.⁷¹ We hope to overcome these concerns by returning to in-person exams and, in 2024–25, the programme policy was to instead undertake “paper-based” MCTs, invigilated in-person, causing a rapid return *back* to the exam hall. Other institutions may choose to engage with proctoring software or other remote invigilation. On large cohorts, such as land law, this may reduce some of the pragmatic advantages associated with MCTs, but the change is necessary in order to preserve academic integrity.

Examples of the style of question we use are set out below.

Example 1

Johnny and Bodie have been neighbours for a few years. Johnny sometimes orders Amazon deliveries to his home, but is usually out at work when they arrive. Bodie tells Johnny that Amazon may go to the back of Bodie’s house and put Johnny’s deliveries in Bodie’s shed for safe keeping. Johnny then collects the deliveries when he gets home from work.

Which one of the following options best describes Johnny’s right to store his deliveries in Bodie’s shed?

- A. A lease
- B. A bare licence
- C. An easement
- D. A profit à prendre

Notes:

Unlike SQE1, our MCTs are open book, and we consider this to be justifiable in Level 5 undergraduate assessments where we are testing application and problem solving rather than pure knowledge recall. For this reason, our questions may also refer to statutory or case authority, unlike SQE. Our MCTs are time limited; as such, students must have a good foundational knowledge and problem-solving skills to complete the test.

SQE1 does not use named actors; our questions do so, to achieve consistency with the style of problem scenarios which our students encounter in the mock village. All summative questions contained three distractors, deviating from the SQE’s use of four distractors. This compromise is justified because writing plausible distractors is a difficult aspect of question design. In addition, Loudon and Macias-Muñoz suggest there is evidence to show that even

⁷⁰Newton and Xiromeriti (n 69) 795.

⁷¹Thomas Connelly, “AI Paralegal Passes SQE” (*Legal Cheek*, 24 November 2023) <www.legalcheek.com/2023/11/ai-paralegal-passes-sqe/> accessed 23 June 2024.

just two distractors may be sufficient to reliably discriminate student understanding.⁷²

Example 2

You are advising Principal Bank, which has a legal mortgage secured against a registered freehold residential property. The mortgagor has not repaid any of their loan for over six months, and their arrears are increasing every month. Principal Bank now wishes to enforce its rights under the mortgage.

The mortgaged property is worth significantly more than the value of the loan secured against it. The current market value of the freehold property will be more than sufficient to fully repay the loan. The property is in an area where the value of freehold residential property is increasing, and freeholds are currently selling very quickly. The property might sell for a higher value if its garage was converted into a home office.

Assume that each of the four following options is lawfully available to Principal Bank and select the single best option for Principal to pursue in these circumstances:

- A. Obtain possession of the mortgaged property and then exercise the power of sale as soon as possible to sell at the current market value
- B. Obtain possession of the mortgaged property but delay exercising the power of sale until the market value of the freehold has reached its peak
- C. Obtain possession of the mortgaged property, convert the garage into an office, and then exercise the power of sale
- D. Sue the mortgagor for the contractual debt outstanding

Notes:

SQE1 aims to assess candidates through problem-based questions with single best answers (SBAs) as opposed to questions with single correct answers.⁷³ SBAs may be more effective in assessing higher order learning. SQE1 cites Miller's pyramid in this respect.⁷⁴ Selecting the best option out of a choice of finely balanced alternatives may therefore represent a more authentic form of problem solving than single correct answer questions. In our experience, it is difficult to develop SBAs.

⁷²Catherine Loudon and Aide Macias-Muñoz, "Item Statistics Derived from Three-Option Versions of Multiple-Choice Questions Are Usually as Robust as Four- or Five-Option Versions: Implications for Exam Design" (2018) 42 *Advances in Physiology Education* 565.

⁷³SRA (n 29).

⁷⁴Gregory Miller, "The Assessment of Clinical Skills/Competence/Performance" (1990) 65 *Academic Medicine* 563.

Our MCT comprised standalone questions with unique stems. Improved alignment and authenticity may be established by developing stems which instead draw upon elements of the mock village, including using MCTs to test interpretation of legal documents, such as registers of title.

Example 3

In 2021, Edgar and Max bought a freehold estate with a registered title ("the Property"). Max's mum, Joan, made a contribution towards the purchase price, so obtained a beneficial interest in the Property. Joan lives in the Property with Edgar and Max. Edgar and Max are the registered proprietors of the Property. Joan is not a registered proprietor of the Property.

In 2023, Edgar and Max borrowed money from Cambria Building Society ("Cambria") under the terms of a legal mortgage. Cambria did not inspect the Property before taking the mortgage. Cambria's mortgage has been correctly registered against the freehold title to the Property. Joan's interest has not been protected by way of a notice. It is now 2024 and you are advising Cambria regarding Joan's interest.

Which one of the following statements most accurately describes Joan's interest in the Property?

- A. Joan's interest has been overreached
- B. Joan's interest is not an overriding interest because Joan should have registered a notice against the freehold title to the Property
- C. Joan's interest is an overriding interest because Joan was in actual occupation of the Property
- D. Joan's interest is an overriding interest because Cambria failed to inspect the Property

Notes:

This is a style of question we would regard as difficult because it tests understanding and application in three key areas of undergraduate land law: recognition of the relevant interest, how this interest is applied to the principles of registered title and how that interest may be affected by overreaching.

Over time, Blackboard's question analysis data can be used to help develop reliable question banks.⁷⁵

⁷⁵Our review of the pedagogy recommended this approach, for example in Phil Race, *The Lecturer's Toolkit: A Practical Guide to Assessment, Learning and Teaching* (3rd edn, Routledge 2007) 48.

6.2. The mock village (written assessment 50% assessed at end of semester 2)

The second innovation was an open book, 24-hour written assessment,⁷⁶ again developed with an authentic, “real-world” focus. This centred on a mock “village” featuring a variety of named actors and different properties. The village was introduced to students at the outset of the module and used in all small group workshops, providing an opportunity to understand the complexity associated with the integration of land and title issues reflective of the real world. Both teaching and assessment were constructed around the same village, albeit with some new properties, individuals and issues introduced for the assessment.

One week before the assessment, students were provided with an advance scenario set in the village. By the time of the assessment, students were familiar with the village, its properties and people, and used to dealing with multiple legal issues in a more “real-life” context; as such, the focus of assessment preparation was not on “question spotting” or compartmentalised topics. Students were encouraged to review the advance scenarios to identify the various legal issues that *could* arise. The assessment was then conducted online, during which students were provided with further information regarding some properties and their fictional occupants, together with a series of questions requiring them to provide advice in response (ie updated instructions, as may happen in legal practice).

Not all properties or issues raised by the advance information were assessed – the advance scenario made it impossible to question spot and students had to analyse the information carefully in order to filter what was relevant. Students therefore needed a broad understanding of the syllabus and an enhanced ability to synthesise information and identify relevant issues to be able to advise appropriately. Authenticity was achieved by providing a more realistic context for the information that students had to analyse, and the problems that they were required to resolve in the form of written advice. This aligns with our understanding of key elements of authentic assessment, as set out earlier.

A key aspect of authenticity, introduced in the 2023–24 assessment, was the introduction of mock title registers for some of the properties, incorporated in the advance information. Registration, perhaps the cornerstone of land law, was no longer assessed as a theoretical or an abstract concept: students were instead required to analyse and interpret the information in the registers in the light of the narrative information and apply and advise

⁷⁶The open book, time limited written assessment is a form which was adopted during Covid and has been retained since. Programmatically, we are limited by assessment tariffs meaning, on the 30-credit module, the 50% written assessment was subject to a maximum word count of 1500 words. By moving to a 75% written assessment in 2024–25, this increased to 2000 words.

accordingly. In this respect, our assessment had a high degree of authenticity, meaning that discrete legal issues, for example overriding interests, had a genuinely practical context.⁷⁷ The advance information was considerable, comprising almost 15 pages. The time taken to develop this material was extensive, but the breadth of issues raised was necessary to ensure that students had to critically analyse the information and determine its relevance to their answers.

The format of the written work we required students to produce did not change. Students' written work followed the IRAC approach,⁷⁸ as developed at Level 4 of our programme, ensuring that academic content was not disturbed. While the initial iterations of the assessment centred on providing client advice, there are opportunities to further incorporate practice-facing skills, including perhaps an opportunity to produce a letter of advice to village occupants, or a legal memorandum to a fictitious supervisor. This could further "turn the dial" towards authenticity and more directly address professional assessments and practitioner skills. Doing so would require careful alignment between the teaching and learning of such a skill and the assessment. The village itself required significant changes to module teaching activities to achieve alignment.

6.2.1. Challenges – constructive alignment and weighting the balance⁷⁹

As with many core law modules, students struggle with application. The traditional approach, and learning activities which we used to support it, may have exacerbated this: assessing by individual topics does not represent how the strands of land law interrelate, and does not encourage contextual understanding of how land law affects people, communities and wider society. Our aim was to engage students by developing an assessment with greater authenticity and then embedding the skills needed for this in small group learning activities: analysis and application to complex real-world scenarios are skills requiring time and practice.

Over the academic year, students were gradually introduced to the various fictional occupants and properties of the village, which comprised 12 titles, together with illustrations of the properties,⁸⁰ allowing students to visualise and connect the problems being analysed to the properties and people involved. Mock registers of title were introduced for each property, enabling students to relate properties with the register as would happen in a real-world task and as would be needed for the written assessment.

⁷⁷This is an example of a discrete issue applicable across the topics taught on a land law module in England and Wales.

⁷⁸Sometimes referred to as Issue, Rule, Application, Conclusion (IRAC) or Plan, Issue, Rule, Application, Conclusion (PIRAC): Sharon Hanson, *Learning Legal Skills and Reasoning*, (4th edn Routledge, 2016) 598.

⁷⁹The authors would like to acknowledge and thank all staff on the module team for their contributions in helping to align the teaching and learning of the module to the written assessment.

⁸⁰Our thanks to our colleague, Dr Lizzy Willmington, for providing these wonderful illustrations.

Students were provided with a history of the village from its origin as a manorial estate, subsequent sales of part for agricultural use, and then for modern-day residential development and occupation. The history was framed around the stories of individuals so that students could connect land law issues with the people and organisations they affected – they were advising *people* with whom they had become familiar throughout the module. The village provided a scaffold around which social issues such as affordable housing, landlord and tenant disputes, human rights and undue influence could be explored. Our aim was to encourage students to appreciate the connection between land law and wider social and/or policy issues.

In framing such stories, we considered issues arising within South Wales, drawing on the history of immigration in Cardiff. However, it must be noted that we are privileged in our position and further work must be done to ensure that the stories used are themselves representative of society. Indeed, while creating “authentic” assessments we must always be concerned about the dominant narratives perpetuated and the privileged construction of authenticity.⁸¹ We also drew on the stories from the facts and judgments of significant cases so that there was alignment between the village and the case law studied. Once again, we are mindful that the cases decided in the highest courts are also a reflection of privilege. As such, they may not be truly authentic; while we use the term “authentic” in this context, we are aware that it is never truly reflective of the lived experience of those who live in South Wales.

We tried to create an assessment *and* a learning environment that was reflective of the issues that arise in practice. Small group learning changed from one-hour tutorials to two-hour workshops, allowing more time for skills development and active learning. The workshops encouraged collaboration and peer learning, with teams of students acting to resolve land law issues arising from realistic materials and then presenting their advice. As such, the learning experience served to encourage learning communities and skills that are central to legal practice including collaboration, reasoning, oral argument and presentation. The box below sets out the introductory paragraphs to the advance information for the mock village written assessment, released one week before the assessment itself. A similar introduction is used in small group workshops.

The History of Maenor Fach

Maenor Fach is a small village that has grown up outside Cardiff in South Wales. The small village has been developed on the extensive land (300 acres) of a large Manor Estate (*Maenor Gwych*) which has been in the ownership of the Gwynedd family from the late 1800s. Houses were built around the Manor

⁸¹McArthur (n 16) 92.

to house and support the staff of the Gwynedd family and over time these were sold.

In 1978, a substantial piece of farmland (130 acres) was carved out of the estate which was sold to the Davis family. In 1990, the Gwynedd family sold 10 acres to Seren Essa who has built a three-bedroom house with extensive gardens. This property is now called 1 Manor Drive. Later, to raise more money to ensure sustainability of the farm, Dai Davis sold 40 acres to a developer, Church Wilson Developments Limited, who developed a small housing estate in 2011. This area (including the Manor Estate, *Maenor Gwych*, the various houses, the remaining farm (Small Farm) and the housing estate) is known as Little Manor or Maenor Fach.

Notes:

Subsequently three scenarios are introduced relating to the retained Manor Estate, the farmland and the developed housing estate. Each scenario contains a number of different properties and occupiers. At least one register of title for each scenario is also provided. The scenarios are presented to students on a person or property basis, not a topic-by-topic basis. Each property/person may require advice on a range of issues – this presents a more realistic context than our traditional assessment because people usually require advice on issues which transcend a range of land law topics, and a single property is usually affected by multiple estates or interests.

Each small group workshop contains a number of learning activities relating to the village, ensuring alignment. Workshop attendance provides students with familiarity to the scenarios, the “village people” and the properties therein, including how these appear visually through illustrations, and “legally” through having interpreted and applied the applicable registers of title. This information is provided to students through Word and PDF documents, uploaded to Blackboard. A potential future innovation may be to instead present the village in an interactive digital environment. Such a resource has been developed by The Less Textual Legal Gallery.⁸²

The assessment advance information contains some additional properties not introduced in the small group workshops. Questions on the scenario are released one week after the advance information and students have a 24-hr period in which to submit their written work. The assessment contains three questions of which students must select one to answer. Each question tests a

⁸²Emily Allbon and others, “A Day in Coltsfoot Vale” (*The Less Textual Legal Gallery, City Law School*) <<https://tldr.legal/resource/a-day-in-coltsfoot-vale.html>> accessed 28 June 2024.

number of land law topics. The assessment questions vary some aspects of the advance information; this adds authenticity because land, its owners, occupants and the issues affecting them are not static – new situations must be critically analysed; knowledge and understanding must be applied to relevant information in order to resolve issues appropriately. The need to cross-reference and interpret various sources of information, including relevant registers of title, also tests a skill required in many forms of employment.

7. Guidance and thoughts for the future

This article draws on our experiences of transforming the assessment strategy of the LLB (Hons) Land Law module at Cardiff University for the 2022–23 academic year. Since the introduction of the new module in September 2022, we have continued to refine the module.

The mock village and MCT assessments have been well received by students, and this model could be rolled out to other core modules; for example, a tort law module could be based around a fictional hospital and surrounding grounds allowing for discussion, analysis and application of the key legal principles including, for the UK context, negligence, occupiers' liability and defamation (among other torts). Alternatively, the same village used in land law could be adapted to facilitate teaching and assessment in other modules. Indeed, it would be possible to write authentic scenarios that could form the basis of teaching and assessment of all the core modules. This would encourage consistency and alignment across the LLB Law degree, facilitating a real-world, authentic approach.

We offer some guidance to our readers who may be inspired to transform their own modules along similar lines:

- (1) Do not underestimate the time commitment to the initial development of the module, materials and assessments, as it is time intensive. It is rewarding and interesting work, which for many reignited a passion for the topic. Indeed, the revitalised course also reinvigorated the teaching and the teachers. It does require significant work in the classroom, and a move from didactic teaching which may not suit everyone.
- (2) The writing of village scenarios and preparing MCTs are time intensive; however, these can be used to build up a bank for assessment purposes. It must be noted that to achieve this MCT questions should not be released post-assessment (although feedback is encouraged).
- (3) The village pre-release scenario can also be reused, by drawing on different principles and concepts and asking different questions. It is important to recognise the value of the transferable skills embedded in the course. We have found it useful to draw student attention to these additional skills.

- (4) Consistency is key – each small group teaching session/topic should follow the same format ensuring a similar student experience across the cohort which aligns with the assessment.
- (5) We have found that to develop student learning it is important to include practice MCT questions in both the resources and the small group teaching sessions. Indeed, the practice MCTs have served as an important teaching tool and have encouraged collaboration and student engagement in addition to exercises involving the mock village. Alignment could be enhanced by writing MCT stems which are also set in the village, including drawing upon the registers of title used in class.
- (6) For authentic assessment it is important that the scenarios reflect real-world and up-to-date issues. Both can be used to engage students with real-world issues that may affect them – now and/or in the future. For example, “renters’ reform” legislation in England and Wales is a specific area, relevant to many students, which can be facilitated in an authentic manner through some of the fictional occupants of the mock village. As this is an area of devolved policy in Wales, it can also be used to teach and assess legislative variations within the same jurisdiction.
- (7) It is important to recognise the changing AI landscape and the potential this poses to academic integrity. As such, steps should be taken (in person, proctoring, etc) to minimise the risk.

8. Conclusions

The changing context of HE in the UK and the arrival of the SQE have provided the stimulus for change in large cohort compulsory modules. While these drivers provided the impetus, the ambition for change was founded on developing a dynamic teaching environment which reflected the interconnectedness of land law, encouraged student engagement and practice-facing skills and transferable skills development that are useful in many areas of employment. Drawing on the pedagogy surrounding authentic assessment, this paper explores the introduction of two forms of authentic assessment into land law teaching design and assessment. The first, anchored in MCT assessment, encouraged students to develop skills that would support them in the SQE. The second, grounded in a fictional village, supported students to develop practice-facing skills including critical analysis, collaboration, reasoning and presentation skills. The module and its assessments challenge the students to develop a detailed understanding of all aspects of the land law curriculum and apply their knowledge and understanding to contemporary issues of land law. To date, the majority of students have enjoyed the teaching, and the tutors report more dynamic engagement in the seminars.

It is important to recognise that this form of teaching and assessment is not without limitations. Time is required to develop the materials, introduce the students to a new way of teaching, and to support the students to develop the key skills. This form of teaching and assessment also requires students to change mindset from exam focus to practice and skills focus, and to move away from a textbook. It is also important to acknowledge that, while a conscious attempt was made to ensure that the stories of the village reflected the diverse communities and issues of South Wales, it is never truly authentic.

Yet, with these caveats, this paper does demonstrate that it is possible to innovate and introduce authentic assessment in the large cohort, compulsory module teaching many of us now experience in law schools. The focus on authentic assessment offered an opportunity to encourage students to develop practice-facing skills and consider the importance of land law in the wider social context.

Disclosure statement

No potential conflict of interest was reported by the author(s).

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